CONSTITUTIONAL PROPOSALS

OF

THE SAPRU COMMITTEE

Report compiled by

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CHAPTER I

PRELIMINARY

1. The Standing Committee of the Non-Party Conference which met on the 18th and 19th of November 1944 at New Delhi adopted a resolution deciding to appoint a committee with terms of reference which are contained therein. This resolution was as follows:—

> "The Standing Committee of the Non-Party Conference, having considered the present situation in view of the breakdown of the Gandhi-Jinnah talks on the communal issue, hereby resolves to appoint a committee which will examine the whole communal and minorities question from a constitutional and political point of view, put itself in touch with different parties and their leaders including the minorities interested in the question and present a solution within two months to the Standing Committee of the Non-Party Conference. The Standing Committee will take all reasonable steps to get that solution accepted by all parties concerned. The Standing Committee authorises Sir Tej Bahadur Sapru to appoint members of the committee and announce their names in due course."

2. To explain the genesis of the committee Sir Tej Bahadur Sapru made the following statement at a press conference at Delhi on 20th November 1944. When Gandhiji came out of the Aga Khan Palace he (Sir Tej) wrote a letter to Gandhiji expressing his satisfaction at his release and welcoming him. Both wanted to meet each other but a meeting could not take place until the second week of August. When they met, they surveyed the situation each expressing his view freely and frankly, but nothing came out of it worth placing before the country. Thereafter, the famous talks between Gandhiji and Mr. Jinnah took place. He (Sir Tej) was extremely sorry that the conversations broke down and led to no settlement. He had deliberately expressed no view in favour of the views of either Gandhiji or Mr. Jinnah, nor had he thought it necessary to add to the chaos that already existed. The partisanship shown by some of those who carried on the controversy made him (Sir Tej) write to Gandhiji about the middle of October, stat-

ing that things were taking a dangerous turn. He (Sir Tej) regretted very much the use of the words 'civil war' in some of the speeches. He said "I am one of those who do not believe in a civil war or in the possibility of a civil war in this country. Taking a realistic view of the situation, civil war to my mind does not mean anything more than a few communal riots. I should regret it very much if any one wittingly or unwittingly excited feelings of one party or the other to that pitch. It should not be difficult for any Government, foreign or national, to put down communal riots but the aftermath of it is bitterness and still greater bitterness. I wrote to Mahatma Gandhi that I very much regretted that these words, which to my mind were very dangerous, were being bandied about in the country freely and that the consequences of it might be very prejudicial to a settlement in the future. I wondered whether he (Gandhiji) was thinking of some further attempt being made to solve the question."

"I pointed out to him that several people from different parts of the country had written to me that the time had come when an all-parties conference should be invited. I know that Gandhiji's mind was also running in that direction. I told him frankly that in the circumstances I did not think that an all-parties conference would lead to any satisfactory result. Before I could get any reply from Gandhiji I got an urgent call from Hyderabad. I received a message from Gandhiji that I might meet him on my way back. I met him on November 9. I was very pleased to see him because his condition of health seemed to me to be very good and I congratulated him on that. Then we talked about the situation as it existed in the country. His suggestion was that I should take a lead in this matter and invite an all-parties conference and that if I had any objection to doing it on my own I should associate with myself some people but he did not mention any names. We discussed it at length and I was unable to agree with him."

"Another friend suggested the idea of Gandhiji himself calling a national convention. I tentatively adopted that suggestion and still further enlarged the scope of that convention just to see what Gandhiji's reaction was. Gandhiji was not agreeable to it. But by the time we finished the conversation there was one impression produced in my mind. In fact that had been my impression from the beginning and it was strengthened at the end of the conversation and I say so deliberately. Having exchanged our views I came to the conclusion that if there was one man among 400 million people of this country who was genuinely and sincerely anxious for a

genuine settlement it was Gandhiji. I shall maintain it in spite of any statement to the contrary. I told Gandhiji that so far as his desire for a settlement was concerned by mutual agreement or in any other legitimate manner, I would stand shoulder to shoulder with him. As I was leaving him he wanted me to see him again after giving further thought and suggest any way out. During the two or three hours I was free, I tentatively arrived at a conclusion. I went back to him and said that some machinery must be devised for attacking the problem. I said a committee might be set up but the real question was as to who was to set up this committee. I could not do so on my own authority. I then suggested to him that I should speak to my friends of the Standing Committee of the Non-Party Conference to set up a committee and to prescribe for it certain duties. We discussed it at length and I was agreeably surprised that the suggestion which I made to him found ready acceptance on his part. I said to him that the object of this committee would not be to bring about a settlement in the sense that the document would be executed, signed, sealed and delivered. The whole object of the committee was to understand the viewpoint of each party and to act as a sort of conciliation board by establishing contacts with leaders of all parties and then to recommend some solution which they thought fit on their own responsibility. It would be open to these parties, the Hindus, Muslims, Depressed Classes, Sikhs, Christians, Parsees to accept it wholly or partially or reject it. There is no question of failure or success. When that had been done it would be for leaders of different parties to consider whether at that stage they should not call a bigger conference. You can call it an all-parties conference or a convention, but some material must be collected. Thereupon, Gandhiji said that he would agree with this proposal provided members of this committee, which was to be appointed by the Standing Committee, did not belong to the Congress, the Muslim League, the Hindu Mahasabha or any one of the recognised parties big or small and the members were persons who had not definitely committed themselves to any particular view since the breakdown of the Bombay talks. I readily agreed."

3. The appointment of the members of the committee was left to the Chairman. The original idea was that the committee should consist of not more than 15 to 20 persons but in view of recommendations from different quarters that the committee should be as broad-based as possible, it was found impossible to stick to the original idea with the result that the Chairman appointed a committee which now consists of 30 gentlemen. In the selection of these members the

Chairman tried to include as far as possible only persons who could bring to bear upon the controversial issues involved an open mind and who were not subject to the mandate of any of the principal political organisations. Their names are given below:—

1. The Rt. Hon. Sir Tej Bahadur Sapru, (Chairman) M.A., LL.D., D.C.L., K.C.S.I., P.C., Former member of the Governor-General's Executive Council. Member of the Round Table Conferences and the Joint Parliamentary Committee, Advocate, High Court, Allahabad.

2. The Rt. Hon. M. R. Jayakar, M.A., LL.D., D.C.L., P.C., member of the Round Table Conference and the Joint Parliamentary Committee. Former Judge, Federal Court, and former Member, Judicial Committee of the Privy Council.

3. Mr. P. R. Das, Barrister-at-Law, Patna. Former Judge, Patna High Court.

4. Sir Syed Wazir Hasan. Former Chief Judge, Oudh Chief Court.

5. Dr. P. K. Sen, Bar-at-Law, Former Judge, Patna High Court. At present Member, Board of Judicial Advisers, Kashmir.

6. The Most Rev. the Metropolitan of India.

7. Sir S. Radhakrishnan, M.A., D.Litt. (Hon.) LL.D., F.B.A., Vice-Chancellor, Hindu University, Benares. Professor of Eastern Religions, Oxford University, and Member of the International Committee on Intellectual Co-operation.

8. Sir C. Ramalinga Reddy, M.A. (Cantab.), Vice-Chancellor, Andhra University. Former Member, Legislative Council of Madras.

9. The Hon'ble Sir N. Gopalaswami Ayyangar, C.S.I., C.I.E., Member, Council of State. Former Member of the Board of Revenue, Madras and former Prime Minister, Kashmir.

10. Sir Homi Mody, K.B.E., Former Member, Viceroy's Executive Council, and President, Millowners' Association, Bombay. Director, Tatas, Ltd.

11. Raja Sir Maharaj Singh, C.I.E., Former Agent-General in South Africa and Home Member, U.P. Government. Former Prime Minister, Kashmir.

12. Mr. Muhammad Yunus, Bar-at-Law, Former Prime Minister, Bihar.

13. Mr. N. R. Sarkar, Former Member, Viceroy's Executive Council. Former Finance Minister, Bengal Government. Former President Federation of Indian Chamber of Commerce and Industry.

14. Mr. Kasturi Srinivasan, Managing Editor, "The Hindu", Madras, Formerly President, All-India Newspaper Editor's Conference.

15. Mr. Tushar Kanti Ghosh, Editor, "Amrita Bazar Patrika."

16. Dr. John Matthai, Director, Tatas Limited, Former President, Tariff Board. Former Director-General of Commercial Intelligence and Statistics, Government of India.

17. Mr. Frank R. Anthony, Bar-at-Law, M.A. (Cantab), M.L.A. (Central), President-in-Chief, Anglo-Indian and Domiciled European Association.

18. Kunwar Sir Jagdish Prasad, K.C.S.I., C.I.E., O.B.E., Former Chief Secretary and Home Member, U.P. Government. Former Member, Viceroy's Executive Council.

19. Dr. Sachchidananda Sinha, Bar-at-Law, Former Vice-Chancellor, Patna University. Former Finance Member, Bihar Government.

20. Sardar Sant Singh, M.L.A. (Central), Advocate, Lahore High Court.

21. Mr. B. L. Rallia Ram, B.sc., B.T., General Secretary, All-India Council of Indian Christians.

22. Khan Bahadur Nabi Baksh Muhammad Husan, C.I.E., Former Prime Minister, Bahawalpur.

23. Mr. N. M. Joshi, M.L.A. (Central), C.I.E,. Secretary, All-India Trade Union Congress.

24. Sardar Harnam Singh, Advocate, Professor of Law, Lahore University.

25. Mr. Fazal Ibrahim Rahimtoola, C.I.E., Former Chairman, Tariff Board, Former Member, Central Legislative Assembly, Bombay.

26. Mr. Syed Aga Haider, B.A. (Cantab.), Bar-at-Law, Former Judge, Lahore High Court.

27. Mr. M. Ruthnaswami, M.A., Bar-at-Law, C.I.E., Vice-Chancellor, Annamalai University, Former Principal of Madras Law College.

28. Mr. Hemchandra Naskar, M.L.A., Honorary Magistrate Sealdah, Alderman and ex-Mayor of Calcutta.

29. Mr. J. Sivashunmugam Pillai, M.A., M.L.A., Ex-Mayor of Madras.

30. Bakshi Sir Tek Chand, Former Judge, Lahore High Court.

4. After the announcement of the resolution of the Standing Committee of the Non-Party Conference referred to above, the Chairman, in consultation with the members of the Committee, addressed personal letters to some leaders requesting them to agree to personal interviews so as to clear up certain points. Among them, he addressed a letter to Mr. M. A. Jinnah, the President of the All-India Muslim League. The correspondence which took place between him and Mr.

Jinnah is printed as appendix No. 10. It is, however, noted with regret that neither the Chairman nor any other member of the Committee could have an opportunity to discuss personally certain aspects of the problem with Mr. Jinnah and therefore the Committee, in its desire to obtain the Muslim League view has been compelled to rely on the resolutions of the Muslim League including the Lahore Resolution (1940), the speeches of Mr. Jinnah and other distinguished leaders of the Muslim League and the correspondence between Mr. Jinnah and Mahatma Gandhi published in September 1944 after the breakdown of the conversations between them and lastly a considerable mass of printed literature on the subject.

5. The Chairman also addressed a letter and sent telegrams to the Hon'ble Dr. B. R. Ambedkar, requesting him to suggest the names of one or two representatives of the Scheduled Classes and to favour him with such material as in his opinion would be useful to the Committee in arriving at its conclusions with respect to the Scheduled Castes. The relevant correspondence is printed as appendix No. 11.

6. The Committee held its first sitting at Delhi from the 29th to the 31st of December 1944. Out of the 26 members of the committee as it stood on that date 18 including two Muslim members, namely Sir Syed Wazir Hasan, late Chief Judge of the Oudh Chief Court and at one time President of the All-India Muslim League and Khan Bahadur Nabi Baksh Mohammed Hussain, C.I.E. late Prime Minister of the Bahawalpur State in the Punjab, attended this session of the committee. There was a general discussion as to the nature of the problem and the procedure to be adopted. A questionnaire was settled and it is printed as appendix No. (1). It was decided to circulate this questionnaire among important public bodies, and individuals. The questionnaire was also issued to the Press and supplied to a very large number of persons who had asked for it. With the concurrence of the Committee, the Chairman undertook to see the leaders of different parties and communities. Accordingly the Chairman first visited the Punjab and stayed at Lahore from the 19th to the 21st of January 1945. During his first visit to the Punjab the Chairman was associated with Sardar Harnam Singh a member of the committee who rendered great assistance to him in establishing contacts with the leaders of the different communities. Kunwar Sir Jagdish Prasad, the Secretary of the committee and Mr. K. Santhanam, the Joint Secretary joined him at Lahore. Accordingly the Chairman, Sir Jagadish Prasad and Mr. Santhanam had interviews with a number of persons including the members of the Communist Party and the representatives of the

Scheduled Castes and Mr. Allama Mishriqui, the leader of the Khaksars. Views were exchanged freely.

The Chairman again was at Lahore from the 19th to the 24th of February 1945 and two other members of the committee, the Rt. Hon. M. R. Jayakar and Kunwar Sir Jagdish Prasad joined him and in association with the local member of the committee, Sardar Harnam Singh, Dr. Jayakar and Sir Jagdish Prasad had further talks with the leaders of the different communities and parties. The Chairman took part in these talks on the fourth day.

7. Later the Chairman visited Madras and with the help of Mr. Kasturi Srinivasan, Editor of the "Hindu" and a member of the committee, and the Kumara Raja of Chettinad the Chairman, during his six days' stay there interviewed a number of persons belonging to different groups and parties including important Muslim and Scheduled caste leaders.

8. From Madras the Chairman proceeded to Calcutta particularly with a view to meeting Dr. Shyama Prasad Mukherjee, President of the All-India Hindu Mahasabha. There he was also joined by Kunwar Sir Jagdish Prasad and Dr. P. K. Sen of Patna. Unfortunately, however, Dr. Shyama Prasad Mukerjee being at that time seriously ill could not be interviewed. Mr. N. R. Sarker, a member of the committee, however, arranged interviews between the Chairman, Kunwar Sir Jagdish Prasad and some Hindu leaders, among them Mr. N. C. Chatterji, a leading member of the All-India Hindu Mahasabha. Interviews also took place with representatives of the Communist party, of the Buddhist community and thirteen representatives of the Scheduled Castes. The Metropolitan of India, also a member of the committee, arranged a representative gathering at the Bishop's Lodge.

The Chairman deeply regrets that he was not able to visit Bombay and some other parts of India.

9. The committee received 168 memoranda, the most important of which are included in the pamphlets issued by the committee. These may be read as a part of this Report. In pamphlet No. 7 shall be found the answers of Mahatma Gandhi to whom a special set of questions were addressed at his request confined to the points arising out of his talks with Mr. Jinnah.

At its first meeting in December 1944, the Committee appointed four Sub-Committees ;

(1) General Sub-Committee consisting of the following members:—

1. Sir Tej Bahadur Sapru (Convenor).
2. Dr. M. R. Jayakar.

3. Sir Homi Mody.
4. Dr. P. K. Sen.
5. Sir N. Gopalswami Ayyangar.
6. Khan Bahadur Nabi Baksh Muhammad Husain.
7. Sir Syed Wazir Hasan.
8. Mr. P. R. Das.

(2) Scheduled Castes Sub-Committee consisting of—

1. Sir S. Radhakrishnan (Convenor).
2. Sardar Sant Singh.
3. Mr. N. M. Joshi.
4. Mr. Tushar Kanti Ghosh.
5. Mr. J. Shivashanmugham Pillai.
6. Mr. Hem Chandra Naskar.
7. Sir C. Ramalinga Reddy.

(3) Minorities Sub-Committee consisting of—

1. Raja Sir Maharaj Singh (Convenor).
2. The Metropolitan of India.
3. Sardar Harnam Singh.
4. Mr. Fazal Ibrahim Rahimtoola.
5. Mr. B. L. Rallia Ram.
6. Mr. Frank R. Anthony.
7. Mr. Tushar Kanti Ghosh.

(4) Economic Sub-Committee consisting of—

1. Dr. John Matthai (Convenor).
2. Sir Homi Mody.
3. Mr. N. R. Sarker.

The General Sub-Committee met on 25th, 26th and 27th February. All the members were present and the Committee presented a unanimous report. The Scheduled Castes Sub-committee held two sittings on 25th and 26th February 1945 and presented a report dealing with the special problems of the Scheduled Castes and Aboriginal Tribes. The Minorities Sub-Committee which in the temporary absence of Raja Sir Maharaj Singh in England was presided over by the Most Rev. the Metropolitan of India met on the 27th and 28th of February but it could not complete its work. A report was submitted on behalf of the Committee approved by Mesrs. Rallia Ram, Frank Anthoy and Sardar Harnam Singh. The Economic Sub-committee was not able to meet as a body and submit a report. Sir Homi Mody and Dr. Matthai however, presented a memorandum on the economic consequences of Pakistan which has been printed as pamphlet No. 9. Later Mr. N. R. Sarkar, the third

member of the Economic Sub-committee submitted a note which has been printed as appendix No. 3. The General Committee met on the 29th of March and its sittings were continued from day to day till the 6th of April when its work was finished. The committee at one time thought that the conclusions it had reached should not be published before its final report but it changed its view for two reasons. As Lord Wavell was then in London discussing the Indian political situation with the British Government, the committee decided that its proposals for an Interim solution of the political deadlock should be cabled to him immediately which was accordingly done. When the committee's sittings came to a close, it was felt that there was a distinct risk of incorrect and garbled versions of the committee's decisions appearing in the press. It was, therefore decided to publish them immeditely in the form of recommendations with an appeal to the public to suspend judgment till the appearance of the final report. These recommendations were accordingly issued to the press and later published in the form of pamphlet No. 10. They are printed as appendix No. 2.

The Committee takes this opportunity to record its thanks to Mr. K. Santhanam of the "Hindustan Times", who, at the early stages of the Committee's work, acted as Joint Secretary and took great trouble about preparing the material for some of the pamphlets and writing notes on their contents. He has also rendered great assistance in calling and attending to meetings of the Committee, framing draft recommendations and looking after the work of the Sub-Committees, which met in New Delhi in the early part of the year.

The Committee also has great pleasure in recording their thanks to Principal D. G. Karve of the Brihan Maharashtra Commerce College of the Deccan Education Society, Poona, for his assistance in preparing a map of the so-called Pakistan areas and preparing a complete index of the Report.

CHAPTER II

HISTORICAL SURVEY (1917-1942)

10. The late Mr. Edwin S. Montague made his famous Declaration in the House of Commons on 20th August 1917. The original formula submitted to the Cabinet by him was—"the gradual development of self-governing institutions with a view to ultimate self-government within the Empire." The formula was, however, on the eve of its publication, revised as follows :

> "The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions, with a view to a progressive realisation of responsible government in India as an integral part of the British Empire."

The person responsible for this redraft was Lord Curzon. His introduction of the word 'responsible' into the formula in association with the word 'self-governing' can only have meant that it was a Parliamentary system which was aimed at. It is incredible that he could have failed to comprehend the full implications of the words which he himself had inserted and yet when he found that the scheme devised by Mr. Montague and Lord Chelmsford in accordance with the formula pointed to the introduction of parliamentary government, Lord Curzon expressed his astonishment and dismay in the Cabinet. But he could not get over the fact that the source of the Secretary of State for India's proposals to Parliament was not so much the report drawn up by the Secretary of State and the Viceroy, as the Declaration which the Secretary of State had been authorised to make on behalf of the Government. Having to speak in support of the Government's Bill in the House of Lords when it came there for second reading, Lord Curzon confined himself in the main to a defence of the procedure adopted by the Government, and to a discussion of the alterations introduced into the framework of the Bill by the Joint Committee. On the merits of the scheme he said little, and that little could scarcely have been gratifying to its supporters. "This is a great experiment," he declared

"I would not have quarrelled with anybody who used the words 'daring experiment.' I am not certain that I should cavil even at the word 'rash'." He did not think that India would be better governed under the new dispensation than it had been in the past. I do not think that it will be so well governed. I think that the standard will tend to fall." But he realised that with "the modern ideal of nationalism and self-determination making in the circumstances of the times so strong an appeal, the peoples of countries such as India attached much more importance to being governed, even though not so well governed, by themselves, than they did to being even superbly governed by another race."

11. After the introduction of the Montague-Chelmsford Reforms, the leading feature of which was dyarchy in the provinces, the Congress, which by that time had gone under the leadership of Mahatma Gandhi, declined to work that constitution, more particularly because public feeling in the country had been much roused by certain unfortunate happenings in the Punjab. It was left to the Liberals who were seceders from the Congress and to others to work the Constitution both in the provinces and at the centre where the Executive Government, though it had a slightly larger Indian element than before, continued to remain responsible only to the British Parliament through the Secretary of State.

12. The first elections after the new British Government commenced functioning took place in 1923 and at that time a new party of Congressmen called the 'Swaraj Party' came into existence and entered the Legislatures in the provinces and at the centre. Shortly after, a debate was raised in 1924 in the Indian Legislative Assembly on a resolution embodying what at that time was called 'The National Demand.' In replying on behalf of the Government, Sir Malcolm (now Lord) Hailey, who was at that time Home Member of the Government of India, made a distinction between 'responsible Government' and 'Dominion self-government' which he considered to be one of substance. "Responsible government was not," he said, "necessarily incompatible with a Legislature of limited or restricted powers. It may be that full Dominion-government is the logical outcome of responsible government, but it is a further and final step. Responsible government and Dominion Status are not the same." (See Legislative Assembly Debates of the 8th of February 1924 at page 358). This statement produced serious repercussions in the country and led large sections of the people to think that the goal of Dominion Status which was believed to be implicit in the Declaration of 1917 and embodied in the preamble of the Government of India Act, 1919.

was at best a remote ideal which would not be reached in the near future. Public feeling in the country grew very strong on the subject and some of the speeches delivered by Lord Birkenhead in the House of Commons and elsewhere accentuated it.

13. The appointment, on the 26th of November 1927 of a Royal Commission consisting of seven members of Parliament with Sir John (now Lord) Simon as Chairman raised a storm of protest in the country mainly on the grounds that there was no Indian on the Commission and that its terms of reference were limited to the enquiry contemplated by Section 84(A) of the Government of India Act, 1919. It was felt that the question of immediate Dominion Status was practically ruled out and all that could happen under the most favourable circumstances would be a further advance. The country was not prepared for this slow method and the claim was pressed that the framing of the constitution was primarily the right and concern of the Indian people. When the Commission came out to India, it was boycotted by nearly all sections of organised Indian public opinion.

14. On May 19, 1928 an All Parties Conference in Bombay appointed a Committee under the chairmanship of Pandit Motilal Nehru to consider and determine the principles of a Constitution for India. This committee submitted its report on the 10th of August 1928. It framed a constitution providing that India should have the same constitutional status in the comity of nations known as the British Empire as the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa and the Irish Free State, with a Parliament having powers to make laws for the peace, order and good government of India and an executive responsible to that Parliament, and should be styled and known as the Commonwealth of India. This constitution was considered at a meeting of the All Parties Conference held at Lucknow between the 28th of August and the 31st of August 1928. It was the subject of further discussion at an All Parties National Convention which was held in Calcutta on the 22nd of December 1928 and subsequent days when Mr. Jinnah presented his 14 points. Hindu-Muslim differences prevented an agreement being reached on both these occasions. Notwithstanding this failure which was universally regretted public feeling continued to gather in strength and volume on the question of India's future.

15. In 1929 Lord Irwin (now Lord Halifax) taking stock of the political situation in the country decided to go to England and discuss the situation in India and the steps to be taken to meet the

growing demand of the country for self-government. He returned to India at the end of October 1929 and on the 31st of October he made the following announcement:—

> "In view of the doubts which have been expressed both in Great Britain and in India regarding the interpretation to be placed on the intention of the British Government in enacting the Statute of 1919, I am authorised on behalf of His Majesty's Government to state clearly that in their judgment it is implicit in the Declaration of 1917 that the natural issue of India's constitutional progress as therein contemplated is the attainment of Dominion Status."

Lord Irwin further indicated that it was His Majesty's intention to invite representatives of different parties and interests in British India and representatives of Indian States to meet them, separately or together, as circumstances might demand, for the purpose of a conference and discussion in regard both to the British Indian and the All-Indian problems, with a view to submit proposals to Parliament which might command a wide measure of general assent.

16. Some conferences of Indian leaders followed at Delhi and Allahabad and ultimately Mahatma Gandhi, Pandit Motilal Nehru, Mr. Vithalbhai Patel, Sir Tej Bahadur Sapru and Mr. Jinnah met the Viceroy on the 23rd of December 1929. Discussions were limited to the functions of the proposed conference in London. "It was pointed out," so runs the official statement, "that any member of the conference would be free to advocate any proposals, and that any measure of unanimity at the conference would necessarily carry weight with British opinion. On behalf of the Congress Party, the view was expressed that, unless previous assurances were given by His Majesty's Government that the purpose of the conference was to draft a scheme for Dominion Status which His Majesty's Government would undertake to support, there would be grave difficulty about Congress participation. His Excellency made it plain that the Conference was designed to elicit the greatest possible measure of agreement for the final proposals which it would be the duty of His Majesty's Government to submit to Parliament, and that it was impossible for him or for His Majesty's Government in any way to prejudge the action of the conference or to restrict the liberty of Parliament."

17. Within a few days of this conference, at the Annual Session of the Congress held at Lahore a resolution was passed which, after referring to the Viceroy's pronouncement of the 31st of October relating to Dominion Status and appreciating his efforts towards meet-

ing the national demand for Swaraj, decided that nothing was to be gained in the existing circumstances by the Congress being represented at the proposed Round Table Conference. The resolution went on to explain that the word 'Swaraj' in Article I of the Congress Constitution shall mean Complete Independence and further declares the entire scheme of the Nehru Committee Report to have lapsed......As a preliminary step towards organising a campaign for Independence and in order to make the Congress policy as consistent as passible with the change of creed, the Congress resolved upon complete boycott of the Central and Provincial Legislatures and Committees constituted by the Government and called upon Congressmen and others taking part in the national movement to abstain from participating, directly or indirectly, in future elections and directed the Congress members of the Legislatures and Committees to resign their seats.

18. Mahatma Gandhi's letter to the Viceroy, issued to the press on the 6th of March 1930, marked the beginning of a campaign of Civil Disobedience. The movement took the form of an infringement of the provisions of the Salt Act. The whole country was in a state of commotion. The Congress members of the different Legislatures including Mr. Vithalbhai Patel, the President of the Indian Legislative Assembly tendered their resignations and a very large number of those who took part in the movement including Mahatma Gandhi, Pandit Motilal Nehru and Pandit Jawaharlal Nehru were imprisoned.

19. In July 1930 with the permission of Lord Irwin negotiations were opened with the leaders in confinement in which two members of the present Committee took part. It is not necessary to go into the whole story of those negotiations. It is enough to say that they failed and the situation remained unchanged. It was in these circumstances that the delegates nominated by the Government of India, none of whom belonged to the Congress, proceeded on their voyage to England to attend the Round Table Conference.

20. The First Round Table Conference was inaugurated by His Majesty the King Emperor on the 12th of November 1930. The opening debate covered wide ground "but its most striking feature was declarations from delegates from the Indian States opening the way to the consideration of a new federal constitution for India, embracing both British India and Indian States." The final debate in plenary session accepted the Reports of the Sub-Committees as forming 'material of the highest value for use in the framing of a constitution for India, embodying as they do a substantial measure of agreement on the main ground-plan.'

21. At the sitting of the Conference on the 19th of January 1931 the Prime Minister (Mr. Ramsay MacDonald) made an important speech. A few paragraphs from it are quoted below:—

(a) "The view of His Majesty's Government is that responsibility for the Government of India should be placed upon Legislatures, Central and Provincial, with such provisions as may be necessary to guarantee, during a period of transition, the observance of certain obligations and to meet other special circumstances, and also with such guarantees as are required by minorities to protect their political liberties and rights."

(b) "His Majesty's Government has taken note of the fact that the deliberations of the Conference have proceeded on the basis, accepted by all parties, that the Central Government should be a Federation of all-India, embracing both the Indian States and British India in a bi-cameral legislature."

(c) "With a Legislature constituted on a Federal basis, His Majesty's Government will be prepared to recognise the principle of the responsibility of the Executive to the Legislature."

(d) "Under existing conditions the subjects of Defence and External Affairs will be reserved to the Governor-General, and arrangements will be made to place in his hands the powers necessary for the administration of those subjects. Moreover, as the Governor-General must, as a last resort, be able in an emergency to maintain the tranquillity of the State, and must similarly be responsible for the observance of the constitutional rights of minorities, he must be granted the necessary powers for these purposes."

(e) "The Governors' Provinces will be constituted on a basis of full responsibility. Their Ministries will be taken from the Legislature and will be jointly responsible to it. The range of Provincial subjects will be so defined as to give them the greatest possible measure of self-government. The authority of the Federal Government will be limited to provisions required to secure its administration of Federal Subjects, and so discharge its responsibility for subjects defined in the constitution as of all-India concern."

22. On the 6th of February 1931, 26 delegates who had returned to India from the Round Table Conference issued a manifesto. They emphasised that British opinion had undergone a remarkable change in India's favour and that it had been explicitly recognised

that the task of governing India should be entrusted to an Indian executive responsible to the Indian Legislature. The signatories welcomed the release of the Congress leaders and hoped that they would come forward to make solid contribution to the completion of the scheme. Unfortunately on that very day Pandit Motilal Nehru passed away. Negotiations were then opened for discussion between Mahatma Gandhi and Lord Irwin regarding the political situation and future work.

23. Conversations between Mahatma Gandhi and the Viceroy commenced on 19th February and concluded on the 4th of March 1931. 'The Gandhi-Irwin Agreement' was issued on the 5th of March over the signature of Mr. Emerson, Secretary to the Government of India. It is sufficient here to refer only to two clauses of this agreement which have a bearing on constitutional issues. They are :

(1) As regards constitutional questions, the scope of future discussion is stated, with the assent of His Majesty's Government, to be with the object of considering further the scheme for the constitutional Government of India discussed at the Round Table Conference. Of the scheme there outlined, Federation is an essential part; so also are Indian responsibility and reservations or safeguards in the interests of India, for such matters as, for instance, defence, external affairs, the position of minorities, the financial credit of India, and the discharge of obligations.

(2) In pursuance of the statement made by the Prime Minister in his announcement of January 19, 1931 steps will be taken for the participation of the representatives of the Congress in the further discussions that are to take place on the scheme of constitutional reform.

24. At the end of March 1931 the Indian National Congress at its session at Karachi, in a resolution moved by Pandit Jawaharlal Nehru ratified the Gandhi-Irwin Pact. Soon after, the situation in India began to deteriorate ; there were charges and counter-charges made by the Congress and the officials alleging breaches of the Gandhi-Irwin Agreement on either side. Towards the end of August, Mr. Gandhi saw Lord Willingdon the new Viceroy and as a result of the interview the Government of India issued a statement emphasizing that the Pact remained operative and that the Congress would be represented at the Round Table Conference by Mr. Gandhi. Mr. Gandhi set sail for England on the 29th of August 1931 and arrived there on the 12th of September.

25. While the delegates were still on their way a domestic crisis overtook England which led to the fall of the Labour Government. A general election took place and as a result a national government was formed under the leadership of Mr. Ramsay MacDonald. He was, however, cut off from the main body of his party and Sir Samuel Hoare succeeded Mr. Wedgewood Benn as the Secretary of State for India.

26. The Second Round Table Conference was held between the 7th of September and the 1st of December 1931. Mr. Gandhi attended as the sole representative of the Congress. At the plenary session on 30th November 1931 he put forward the Congress point of view with regard to the various questions which were engaging the attention of the Committee. The outstanding feature of the Second Round Table Conference, however, was the acuteness of the communal problem. At the third meeting of the Minorities Committee, Mr. Gandhi reported that the negotiations which had been going on had unfortunately proved entirely abortive, despite the utmost anxiety on the part of all concerned to reach a satisafactory outcome. After considerable discussion the Committee adjourned for a further period to enable fresh efforts to be made to reach agreement between the various interests affected. At the next meeting on 30th November it appeared, however, that despite every effort on the part of the negotiators it had unfortunately proved impossible to devise any scheme of such a character as to satisfy all parties. The representatives of the Muslims. Depressed Classes, Anglo-Indians, a section of the Indian Christians and the European commercial community intimated that they had reached an agreement *inter se*, which they formally presented for the consideration of the committee. But the course of the discussion on 13th November made it clear that the agreement in question was not regarded as acceptable by the Hindu or Sikh representatives, and that there seemed no prospect of a solution of the communal question as the result of negotiation between the parties concerned. During the various discussions suggestions were made that the British Government should settle the dispute on its own authority. These suggestions, however, were accompanied by such important reservations that they afforded little prospect of any of them securing the necessary harmony in working, but the Prime Minister, as Chairman of the Committee, offered to act, and give a decision of temporary validity if he were requested to do so by every member of the Committee signing an agreement to pledge himself to support his decision so as to enable

the constitution to be put into operation, further efforts for an all-India settlement being pursued in the meantime.

27. At the plenary session on the 1st of December 1931 the Prime Minister, after announcing the decision that the North-West Frontier Province should be constituted a Governor's Province, of the same status as other Governors' Provinces, and that Sind should be constituted a separate Province, if satisfactory means of financing it can be found, made a special appeal in respect of the communal problem. While in the absence of an agreed settlement among the delegates themselves, he was prepared and determined to formulate and implement a provisional scheme devised by His Majesty's Government, he conveyed the warning that it was not a satisfactory method of solving the problem and was bound to add to the difficulties of framing and working the Constitution. He, therefore, implored them "to take further opportunities to meet together and present us with an agreement."

28. On the 19th of March 1932, however, His Majesty's Government having been informed that the continued failure of the communities to reach agreement was blocking the progress of the plans for the framing of a new Constitution, stated that they were engaged upon a careful re-examination of the difficult and controversial questions involved; and on the 4th of August 1932, His Majesty's Government gave the Award and it was published a few days later. The text of the Communal Award is given in Pamphlet No. 1 issued by the Committee. It may, however, be pointed out that the leading feature of this Award is that elecion to the seats allotted to Mohammadans, Europeans and Sikhs constituencies will be by voters voting in separate communal electorates covering between them the whole area of the Province (apart from any portions which may in special cases be excluded from the electoral area as 'backward'). It was also stated that provision would be made in the Constitution itself to empower a revision of this electoral arrangement (and the other similar arrangements mentioned in the Award) after 10 years with the assent of the communities affected, for the ascertainment of which suitable means would be devised. The other equally important feature of the Award was that which related to the Depressed Classes. The relevant portion of the Award on this subject is :—

> "Members of the Depressed Classes qualified to vote will vote in a general constituency. In view of the fact that for a considerable period these classes would be unlikely, by this means alone, to secure any adequate representation in the Legislature,

a number of special seats will be assigned to them as shown in the table. These seats will be filled by election from special constituencies in which only members of the 'Depressed Classes' electorally qualified will be entitled to vote. Any person voting in such a special constituency will, as stated above, be also entitled to vote in a general constituency. It is intended that these constituencies should be formed in selected areas where the Depressed Classes are most numerous, and that, except in Madras, they should not cover the whole area of the Province. In Bengal it seems possible that in some general constituencies a majority of voters will belong to the Depressed Classes. Accordingly pending further investigations, no number has been fixed for the members to be returned for the special Depressed Classes constituencies in that Province. It is intended to secure that the Depressed Classes should obtain not less than 10 seats in the Bengal Legislature. His Majesty's Government do not consider that these special Depressed Classes constituencies will be required for more than a limited time. They intend that the Constitution shall provide that they shall come to an end after 20 years if they have not previously been abolished under the general powers of electoral revision referred to in paragrah 6."

29. The Award was received with very mixed feeling in the country. It was very strongly opposed in the nationalist circles and by Hindus at large. It was more favourably received by the Muslims and other minorities. Meanwhile, Gandhiji who had been imprisoned on his return from England under circumstances which will be narrated later, entered upon a fast unto death as a protest against the provison of separate electorates for the Depressed Classes which in his opinion was calculated to separate the Depressed Classes from the general body of the Hindu community. This fast was broken upon the intervention of common friends in the Yeravada jail as a result of an understanding arrived at between Mahatma Gandhi, Dr. Ambedkar and certain other leaders of the Depressed Classes and of the Hindus present on the occasion. These understandings were recorded in the form of an agreement on the 25th of September 1932. This Poona Pact was cabled to England and was accepted by the Prime Minister and his original Award was modified in terms of it. The merits of the Pact will be discussed in a later Chapter.

30. The history which followed Gandhiji's later fasts, of ordinance rule and repression by Government and of the Civil Disobedience Movement in which several leading Congressmen were arrest-

ed and imprisoned need not detain us here; but it was in the midst of very disturbed conditions in India that the work of the Round Table Conference had to be resumed.

Before the resumption, however, three Committees had come out from England and gone round the country and collected material. One dealt with questions of franchise—the Indian Franchise Committee—and was presided over by Lord Lothian. The second—the Indian States Enquiry Committee (Financial) was presided over by the Right Hon'ble J. C. Davidson. The third dealt with Federal Finance.

The Third Round Table Conference was held in London between the 17th of November, 1932 and the 24th of December, 1932. At the end of it, the British Government formulated their proposals for Indian Constitutional Reform in the form of a White Paper, which was followed by the appointment of a Joint Parliamentary Committee. This Committee included delegates from British India and from the Indian States, recorded evidence and submitted a report on the basis of which the Government of India Bill was framed and introduced in Parliament.

GOVERNMENT OF INDIA ACT.

31. After a prolonged discussion in the two Houses of Parliament the Bill introduced was passed into law on the 22nd of August 1935. It is described as 'An Act to make further provision with respect to the Government of India.' It will be noticed that the Act does not profess to confer upon India a full measure of self-government. The word 'further' has not been used in the Acts relating to the Constitutions of Canada, South Africa or Australia. Unlike the Dominion Acts the present Government of India Act contains no Preamble. Indian public opinion very strongly demanded that there should be a clear enunciation of policy referring to the Dominion Status and when it was found that even the limited Preamble to the Act of 1919 was going to be omitted there were loud protests in the country. Ultimately a place was found for it in the 10th Schedule which deals with the repealed enactments. It will be recalled that the Royal Message delivered by the Duke of Connaught at the opening of the Indian Legislature in 1921 had stated:

> "For years, it may be for generations, patriotic and loyal Indians have dreamt of Swaraj for their motherland. Today you have the beginning of Swaraj within our Empire and the widest scope and ample opportunities for progress and liberty which my Dominions enjoy."

Speaking on the absence of the Preamble in the House of Commons Sir Samuel Hoare observed:

> "The position of the Government is this: they stand firmly by the pledge contained in the 1919 Preamble, which it is not part of their plan to repeal and by the interpretation put by the Viceroy in 1929 on the authority of the Government of the day, on that Preamble that: 'the natural issue of India's progress as there contemplated, is the attainment of Dominion Status."

Indian opinion, however, was unanimous that it was not enough for Sir Samuel Hoare to say that the British Government stood by the policy of 1919. What was necessary, having regard to the circumstances of the country, was that they should have had the statesmanship to go further, and indeed we think that, if the policy embodied in the Preamble of the Declaration made by Sir Stafford Cripps in 1942 had been enunciated by Sir Samuel Hoare in 1935 the country would have given a better reception to the Government of India Act, 1935 and the history of Indo-British relations would probably have been very different.

32. The Government of India Act, 1935, sought to establish, subject to certain conditions a Federation by Royal Proclamation, a Federation under the Crown by the name of the Federation of India consisting of the Governors' Provinces and the Indian States which have acceded or may thereafter accede to the Federation. The Chief Commissioners' Provinces were also to be included in the Federation. As regards the accession of the Indian States the condition was that States the Rulers whereof will, in accordance with the provisions contained in Part II of the First Schedule of this Act, be entitled to choose not less than 52 members of the Council of State; and the aggregate population whereof, as ascertained in accordance with the said provisions, amounts to at least one-half of the total population of the States as so ascertained, should have acceded to the Federation. The fulfilment of these conditions necessarily involved considerable delay. Provincial Autonomy was, therefore, inaugurated first and simultaneously negotiations were started by Lord Linlithgow in the Indian States but for lack of grip and intelligent and firm direction a considerable time was wasted in these negotiations. It was then discovered that many of the Indian States, if not all, were seeking to impose conditions, the fulfilment of which involved difficulties, constitutional, administrative, financial and otherwise, and it was realised that the gap between the establishment of Provincial Autonomy and the establishment of the Federation at the Centre was not going to be short.

Provincial Autonomy had barely been in operation for a little over two years when the War broke out on the 3rd of September, 1939. Addressing the joint session of the Indian Legislature on the 11th of September, 1939 Lord Linlithgow observed as follows :—

> "I will add only one word more in regard to our Federal preparations. Those preparations as you are aware are well advanced and much labour has been lavished on them in the last three years. Federation remains as before the objective of His Majesty's Government, but you will understand, gentlemen, without any elaborate exposition on my part the compulsion of the present international situation, and the fact that given the necessity for concentrating on the emergency that confronts us we have no choice but to hold in suspense work in connection with the preparations for Federation while retaining Federation as our objective."

33. To attempt a criticism in detail of the provisions of the Act of 1935 would be to overload this Report with material which is available in abundance in the voluminous literature that exists on the subject. No party or body of organised opinion was prepared to welcome it mainly because it fell far short of everybody's reasonable expectations and was stuffed with safeguards, reservations and special responsibilities which very largely circumscribed the field of ministerial responsibility. An early attainment of Dominion Status became uncertain and problematical and pronouncements made on behalf of His Majesty's Government during the stormy passage which the Bill had in the House of Commons and the House of Lords raised grave doubts and misgivings in the minds of many people.

34. A general election under the new Act was held in 1936-37. The Congress won the election and had absolute majority in the Legislative Assembly in Madras, the United Provinces, the Central Provinces, Bihar and Orissa. It was the biggest single party in four provinces, namely, Bombay, Bengal, Assam and the N.W.F.P. In the Assemblies of Sind and the Punjab it was in comparatively smaller minority. The total number of Muslim seats in the Assemblies of the 11 Provinces was 482. Out of this number the Congress contested 58 seats and won 26, i.e., 46 per cent of the seats contested. The total number of Labour seats in the 11 Provinces was 38. Of these the Congress contested 20 and won 18, i.e., 90 per cent. of the seats. The total number of seats reserved for landholders in the Assemblies of the 11 Provinces was 37. Out of this number the Congress contested 8 and secured 4. The total number of seats reserved for commerce and industries in the Assemblies of the 11 Provinces

was 56. Out of these the Congress contested 8 and won only 3. A perusal of the figures relating to the majorities secured by the Congress candidates will show that the majority in the Constituencies of the United Provinces varied between 40,000; 32,000; 30,000; 24,000; 22,000 and 20,000, the smallest majority being 1,000.

Similarly in Madras the majority varied between 54,000 and 1,000; in Bihar between 36,000 and 1,000; in the Central Provinces between 26,000 and 1,000; in Bombay between 32,000 and 1,000; in the Punjab between 15,000 and 1,000 and in Orissa between 12,000 and 1,000.

The following table shows the number of seats contested and won by the Congress :

Province.	Total number of seats in the Legislative Council.	Seats contested by the Congress.	Seats won by the Congress
Madras	46	33	26
Bihar	26	12	8
Bombay	26	15	13
U.P.	52	19	8
Bengal	57	12	9
Assam	23	1	nil.
	230	92	64

It would thus appear that out of a total of 230 seats in the Legislative Councils of the six Provinces only 92 were contested by the Congress and 64 were won by the Congress, i.e., the Congress secured 28 per cent. of the total seats and 60 per cent. of the seats contested by it.

In Madras the Congress secured approximately 65 per cent. of the total votes cast and 74 per cent. of the total seats in the Assembly. In the Madras Legislative Council the Congress secured approximately 50 per cent. of the total votes cast and 56.5 per cent. of the total seats in the Council.

In the Council the Congress contested 35 seats in the general constituency out of a total of 35 and won all.

In Bihar the Congress secured approximately 75 per cent. of the total votes and 65 per cent. of the total seats in the Bihar Assembly. It contested 107 out of 151 seats and won 98, i.e., 92 per cent. of the total seats contested. In the general urban constituencies the Congress captured all the 5 seats while in the general rural constituencies

the Congress was able to secure 68 out of a total of 73 seats. In the Scheduled Castes constituency also it achieved remarkable success by capturing 14 out of 15 seats, 9 seats being unopposed. The Congress contested 7 out of a total of 38 Muslim seats and won 5. Similarly it secured 3 out of 4 seats reserved for women. The Congress succeeded in winning 2 Labour seats out of 3, and 1 landholders' seat. In the Legislative Council in Bihar the Congress contested 6 out of 9 general seats but lost all. It contested no seat in the Mohamedan constituencies.

In Bombay the Congress secured about 56 per cent. of the total votes cast and won 49 per cent. of the total seats in the Assembly. It contested 84 out of 92 seats in the general constituencies and won 69. The Congress contested only two seats in the Muslim Constituencies and lost both. Of the Scheduled Caste Constituencies the Congress contested 8 out of 15 seats and won 4, while for the Mahratta seats the Congress put up 6 candidates of whom 4 were successful. The Congress did not contest the Backward Class seats. One Indian Christian seat was contested by the Congress but was lost. Out of 7 seats reserved for Commerce and Industry the Congress secured 1. Of the 7 Labour seats 2 were won by the Congress. The Congress succeeded in winning all the 5 general seats for women while the one seat reserved for Mohamedan women was not contested. The one seat reserved for the University was also secured by the Congress. In the Bombay Legislative Council the Congress secured 38 per cent. of the total votes cast and captured 50 per cent. of the total seats in the House.

In the United Provinces the Congress secured approximately 65 per cent. of the total number of votes cast and won 59 per cent. of the total seats in the Assembly. It won all the 14 seats in the urban general constituencies, while in the rural general constituencies it contested 109 out of 110 seats and succeeded in capturing 100 seats. In the Scheduled Caste constituencies the Congress contested 17 out of 20 seats and captured 16. In the Muslim constituencies the Congress contested 9 out of 66 seats and lost all. In the special Labour constituencies the Congress secured all the 3 seats. The Congress did not put up any candidate for the special constituencies of Landholders, Indian Christians, Anglo-Indians and Commerce. It contested and won the University seat. The Congress captured all the 4 seats reserved for women. In the United Provinces Legislative Council the Congress contested 19 out of 34 seats in the general constituencies and captured 8 seats. The Congress contested no seat in the European constituencies.

In Bengal the Congress secured roughly 25 per cent. of the total votes cast and 22 per cent. of the total seats in the Assembly. The Congress captured 43 out of 48 seats in the general constituencies. Of the 30 Scheduled Caste seats 13 were contested by the Congress and 7 were won. In the Legislative Council in Bengal out of 10 seats in the general constituencies the Congress contested 6 and secured 3.

In the Central Provinces the Congress secured approximately 61 per cent. of the total votes cast and 62.5 per cent. of the total seats in the Assembly. It contested 85 out of 112 seats and won 70. In the general urban constituencies the Congress contested and won all the 9 seats, and in the general constituencies the Congress succeeded in capturing 49 out of 56 seats. In the Scheduled Caste constituencies the Congress contested 9 out of 19 seats and won 5. Two Mohamedan seats were contested by the Congress but both were lost. The Congress won 1 out of the 2 Labour seats and 2 out of the 3 Landholders' seats. It captured all the 3 seats reserved for women.

In the Punjab the Congress secured 13 per cent. of the total votes cast and captured 10.5 per cent. of the total seats in the Assembly.

In the North-West Frontier Province Legislative Assembly, the Congress secured 38 per cent. of the total seats in the Assembly. It contested 37 out of a total of 50 seats and won 19. In the Muslim constituencies the Congress contested 29 seats and won 15, while in the general constituencies the Congress contested 8 seats and was able to capture 4.

In the Orissa Legislative Assembly the Congress secured 60 per cent. of the total seats in the Assembly.

In the Assam Legislative Assembly the Congress contested only 41 seats out of 108 and secured 33 seats. In the Assam Legislative Council there are 22 seats out of which 3 to 4 are to be filled by the Governor by nomination. The Congress contested only one which it lost.

In Sind the Congress secured roughly 12 per cent. of the total votes cast and 12 per cent. of the total seats in the Assembly. It contested 3 seats from the general urban contituencies. In the general rural constituencies the Congress contested 8 out of 15 seats and won only 2. It did not contest any Muslim seat. It secured also 1 of the 2 seats reserved for Commerce.

In the United Provinces bye-elections in Muslim rural constituencies the total number of seats vacant was 6. The Congress contested 6 and won 2, the one being uncontested and the other with a majority of 5,000 votes.

35. We have given these details to show that the first elections under the Act in all the Provinces excepting Bengal, Punjab, Assam and Sind left the Congress the most influential party. In the general constituencies where no special interest came into conflict with it its success was almost complete. In the N.W.F.P. which was prominently a Muslim majority Province, its success was no less remarkable. Elsewhere in Muslim constituencies and particularly in Sind it secured poor results.

36. At a meeting held at Wardha after the elections Mahatma Gandhi is reported to have thrown out the hint that the Congress might be dishonouring its words with the electorate if it accepted office in the Provinces without receiving any gesture from the Government indicating a change of heart. Madras Congressmen were, however, strong in support of acceptance of office. In other Provinces Congressmen took the view that the acceptance of office after a gesture from the Viceroy might involve reciprocal obligations and weaken their hands in handling the affairs of the Government in the manner they might wish to.

At the meeting of the All-India Congress Committee held at Delhi on the 18th of March 1937, a resolution was unanimously adopted advising that office might be accepted only if the leader of the Congress Party in the Assembly in each Province was satisfied and was able to declare publicly that the Governor "will not use his special powers of interference or set aside the advice of Ministers in regard to their constitutional activities."

The Governors of the six Congress majority Provinces started discussion with the Congress leaders. The Governors of Bombay, Madras, Orissa and Central Provinces were not prepared to give any assurance in the terms demanded by the Congress leaders regarding the exercise of their special powers and the negotiations therefore failed. In a Communique of the United Provinces Government it was stated that the obligations laid upon the Governor by the Government of India Act and the Instrument of Instructions were clear and specific and that it was clearly not in the power of the Governor to meet such a demand. The Bihar Government Communique stated that the terms of the Act were mandatory and even if the Governor wished to divest himself of the obligations imposed on him by the Act and by the Instructions he had no power to do so. Similar Communiques were issued by the Governors of Bombay, Orissa, Madras and the Central Provinces.

Then on the 30th of March 1937 Mahatma Gandhi issued a statement in which he said :

"My desire was not to lay down any impossible condition .... I felt that this object could not be secured unless there was a gentlemanly understanding between Governors and their Congress Ministers that they would not exercise their special powers of interference so long as Ministers acted within the Constitution. . . . Have I not heard Sir Samuel Hoare and other Ministers saying in so many words that ordinarily Governors would not use their admittedly large powers of interference ? I claim that the Congress formula asked for nothing more. It has been claimed on behalf of the British Government that the Act gives autonomy to the Provinces. If that is so, it is not Governors but Ministers who are during their period of office responsible for the wise administration of their Provinces."

37. Much controversy followed, both in India and in England but, pending a final decision on it, interim Ministries were formed and carried on the day to day administration. The deadlock was at last resolved after a very long pronouncement by the Viceroy on the 21st of June 1937 reviewing the whole situation. The statement is too long to be reproduced here *in extenso* but the following sentence will suffice in the present connection :—

"The design of Parliament and the object of those of us who are the servants of the Crown in India and to which it falls to work the provisions of the Act must be and is to ensure the utmost degree practicable of harmonious co-operation with the elected representatives of the people for the betterment and improvement of each individual Province and of India as a whole and to avoid in every way consistent with the special responsibilities for minorities and the like which the Act imposes, any such clash of opinion as would be calculated unnecessarily to break down the machine of Government or to result in a severance of that fruitful partnership between the Governor and his ministers which is the basis of the Act and the ideal, the achievement of which the Secretary of State, the Governor-General and the Provincial Governors are all equally concerned to secure."

Soon after, on the 7th of July 1937, the Congress Working Committee decided to permit Congressmen to accept office where they might be invited to do so. They were, however, to work on the lines laid down in the Congress Election Manifesto, and to further in every possible way the policy of combating the new Act on the one hand and of prosecuting the constructive programme on the other. Congress Ministries were formed, therefore, in different Provinces

in July 1937 and continued to function until they resigned in 1939 after the outbreak of the war.

38. It is not intended to review here the work of the Congress Ministries or any other Ministries in detail. This has been done at length by Sir Reginald Coupland in Part II of his recent book *Indian Politics*, 1936-1942. Though his analysis of the events connected with the Congress Ministries is at places neither just nor fair, he has freely acknowledged that the Ministries in the Congress Provinces had more stability than those of any of the non-Congress Provinces except the Punjab that with few exceptions, the Congress Ministers proved themselves capable and tireless working with a high sense of public duty and responsibility, that they maintained the accepted principles of public finance, that their activities in the field of social and economic betterment were bold and remarkable and that the legislatures which they linked and were responsible to were well-conducted, hardworking and businesslike.

Two Governors—Lord Erskine and Sir Harry Haig—who had exceptional opportunities of forming judgments based upon their own personal knowledge have since borne high testimony to the quality of the achievements of the Congress Ministries with whom they worked and of these we would quote here the testimony of Sir Harry Haig. After referring to details by subjects and departments, he concludes :

> "To sum up conclusions on events and tendencies of such complexity and variety is perhaps to risk misunderstanding owing to the necessary brevity of expression. But if I am to take that risk I would say that the experiment of introducing full democratic institutions among a people who still instinctively think in authoritarian terms, who view the Government as somebody's "Raj," has been launched with a success beyond expectation. Congress and the Services, starting about as far apart as it was possible to be, learned to work together. The Congress learned the stubborn facts of administration. The Services learned the implications of democratic control. The party which has hitherto always been in opposition, and often in extreme and even unconstitutional opposition, to the Government took over the reins of government. The revolution in the ideas of the masses caused by this change was kept, on the whole, within the bounds of safety. It is no mean achievement, and both the Congress and the Services share in the credit for this."

Unfortunately when the domestic conditions were taking a turn for the better and Provincial Governments were stabilising themselves thick clouds were gathering in the West and the storm burst on the 3rd of September 1939 when war was declared which changed the whole course of events during the next six years.

39. Shortly after the outbreak of the war the Viceroy summoned a large number of Indian political leaders of different schools to meet and to discuss the situation with him. Among them were Mahatma Gandhi and Mr. M. A. Jinnah.

A meeting of the Working Committee of the Congress was held at Wardha between September 8 and September 15, 1939. Dr. Rajendra Prasad presided. On the 11th the Working Committee decided to invite Mr. Jinnah, President of the Muslim League to participate in the deliberations. The following telegrams were exchanged :

President of the Congress to Mr. Jinnah :—

> "Congress Working Committee discussing war situation. View serious question affecting India should like discuss with you. Would appreciate your joining discussions at Wardha any date upto 15th."

Mr. Jinnah's reply :

> "Your telegram, shall be glad discuss situation with you at Delhi, cannot go Wardha owing previous commitments, Muslim League Working Committee meeting Delhi seventeenth. Am bound reach Delhi thirteenth."

President of the Congress again to Mr. Jinnah :

> "Thanks your telegram. Purpose of inviting you was to receive your assistance in shaping Working Committee decision on critical situation. That purpose can't be served by my coming Delhi."

We cannot help expressing regret that this proposed joint Conference did not take place at that time. If it had taken place the course of subsequent events might possibly have been different.

40. Having discussed the war situation for nearly five days the Working Committee adopted a lengthy resolution in the following extract from which the Congress attitude towards the war is defined :—

> "The Congress has further laid down that the issue of war and peace for India must be decided by the Indian people and no outside authority can impose this decision upon them, nor

can the Indian people permit their resources to be exploited for Imperialist ends...."

"If the War is to defend the *status quo*, Imperialist possessions, colonies, vested interests and privileges, then India can have nothing to do with it. If, however, the issue is democracy and a world order based on democracy, then India is intensely interested in it. The Committee are convinced that the interests of Indian democracy do not conflict with the interests of British democracy or of world democracy. But there is an inherent and ineradicable conflict between democracy for India or elsewhere and Imperialism and Fascism. If Great Britain fights for the maintenance and extension of democracy, then she must necessarily end Imperialism in her own possessions establish full democracy in India, and the Indian people must have the right of self-determination by framing their own constitution through a Constituent Assembly without external interference, and must guide her policy. A free democratic India will gladly associate herself with other free nations for mutual defence against aggression and for economic co-operation. She will work for the establishment of a real world order based on freedom and democracy, utilising the world's knowledge and resources for the progress and advancement of humanity."

"India is the crux of the problem, for India has been the outstanding example of modern Imperialism and no refashioning of the world can succeed which ignores this vital problem. With her vast resources she must play an important part in any scheme of world re-organisation. But she can only do so as a free nation whose energies have been released to work for this great end. Freedom today is indivisible and every attempt to retain Imperialist domination in any part of the world will lead inevitably to fresh disaster.

"In view, however, of the gravity of the occasion and the fact that the pace of events during the last few days has often been swifter than the working of men's minds, the Committee desire to take no final decision at this stage......"

"The Working Committee, therefore, invite the British Government to declare in unequivocal terms what their war aims are in regard to democracy and Imperialism and the new order that has envisaged, in particular, how these aims are going to apply to India and to be given effect to in the present day. Do they include the elimination of Imperialism and the treatment

of India as a free national whose policy will be guided in accordance with the wishes of her people ? A clear declaration about the future, pledging the Government to the ending of Imperialism and Fascism alike, will be welcomed by the people of all countries, but it is far more important to give immediate effect to it, to the largest possible extent, for only this will convince that the declaration is meant to be honoured. The real test of any declaration is its application in the present, for it is the present that will govern action today and give shape to the future."

This resolution of the Working Committee was adopted with some slight verbal changes by the All-India Congress Committee in October 1939.

It is in October 1939 that the full text of the correspondence which had passed between the Congres President and the President of the Muslim League, Mr. Jinnah, about the charges levelled by the Muslim League against the Congress Governments in the Provinces was issued to the Press. The President of the Congress wrote to Mr. Jinnah with reference to the resolution of the Working Committee of the All-India Muslim League held about that time in Delhi that "it is stated that Provincial autonomy in several Provinces has resulted in the domination of the Hindus over the Muslim minorities whose life and liberty, property and honour are in danger, and even their rights and culture are being assailed and annihilated every day under the Congress Governments in various Provinces." The President of the Congress felt that these charges were wholly unfounded and were based on misapprehension and one-sided reports that might have reached Mr. Jinnah and the League. The President, however, said that such charges, when seriously made, should be enquired into and either substantiated or disproved. "We would like this course to be adopted," said he, "in regard to any specific instances that are put forward. If you agree, we could request the highest judicial authority in India, Sir Maurice Gwyer, Chief Justice of the Federal Court, to enquire into this matter. In the event of his not being available, some other person of a similar status and judicial position might be approached."

Mr. Jinnah's reply to the above letter was as follows :—

"I beg to inform you that I have already placed the whole case before the Viceroy and the Governor-General and have requested him to take up the matter without delay as he and the Governors of the Provinces have been expressly authorised under the Constitution and are entrusted with the responsibility to protect the rights and interests of the minorities. The matter

is now under His Excellency's consideration and he is the proper authority to take such action and adopt such measures as would meet our requirements and would restore complete sense of security and satisfaction amongst the Mussalmans in those provinces where the Congress Ministries are in charge of the administration. In these circumstances, I do not wish to discuss further the various statements made in your letter as it is unnecessary to do so, but I must say that some of them are wholly inaccurate."

It is clear that the two parties were getting further and further apart.

41. The meeting of the Council of the All-India Muslim League, held at Delhi on the 27th and 28th of August 1939, on the eve of the commencement of the War is remarkable for its attack on the Viceroy and the Governors for failure to exercise their special powers to protect Muslims against the alleged trampling by Congress Ministries upon their religious, political, social and economic rights. What is even of greater significance is the indication that Pan-Islamism would influence the attitude of Indian Muslims to the war if it should break out. The resolution adopted stated:—

"The Council considers it premature at present to determine the attitude of Moslems in the event of a world war breaking out. The Council meanwhile directs the Foreign Committee to get into touch with Islamic countries and to ascertain their views and if any sudden contingency arises the Working Committee of the All-India Muslim League shall have the power to decide this issue."

42. The Working Committee of the Muslim League then met at Delhi on the 18th of September 1939. In a long resolution it reiterated the views expressed by the Council of the All-India Muslim League in its resolution of August, and repeated its charges of tyranny against Muslim Congress Provinces and protested against the imposition of a Federal Constitution on the Muslims. It expressed its appreciation of the declaration of the Viceroy, that the negotiations for introducing the Federal Part of the Act had been suspended, but wished they had been abandoned completely. The Committee objected to a Federal Constitution altogether and strongly urged upon the British Government the need for reviewing the entire problem of India's future Constitution *de novo* in the light of the experience gained by the working of the Provincial constitutions under the Act of 1935. That experience in its opinion had "established beyond doubt that it has resulted wholly in a permanent com-

munal majority and the domination of the Hindus over the Muslim minorities whose life and liberty, property and honour, are in danger and even their religious rights and culture are being assailed and annihilated every day under the Congress Government in various provinces." It proceeded to assert that majority rule under the guise of parliamentary democracy "is totally unsuited to the genius of the peoples of the country which is composed of various nationalities and does not constitute a national state." It pointed out that Great Britain could not secure real and solid Muslim co-operation in the war unless justice and fairplay were assured to Muslims in the Congress Provinces and strongly appealed to His Majesty's Government and Viceroy and Governor-General "to direct the Governors to exercise their special powers where any Provincial Ministry fails to secure justice and fairplay to the Mussalmans or where they resort to oppression or interference with their political, economic, social and cultural rights, in accordance with the sacred promises, assurance and declarations repeatedly made by Great Britain, in consequence of which these special powers were expressly embodied in the statute."

Then follows a demand which is perhaps the first authoritative attempt to obtain for the Muslim League a veto on all constitutional advance :—

> "While the Muslim League stands for the freedom of India, the Committee further urge upon His Majesty's Government and ask for the assurance that no declaration regarding the question of constitutional advance for India should be made without the consent and approval of the All-India Muslim League nor any constitution be framed and finally adopted by His Majesty's Government and the British Parliament without such consent and approval."

43. In a statement, on October 17, 1939, the Viceroy announced that he had been "authorised by His Majesty's Government to say that at the end of the war they will be very willing to enter into consultation with the representatives of the several communities. parties and interests in India and with the Indian Princes, with a view to securing their aid and co-operation in framing such modifications (of the Act of 1935) as may seem desirable." The Viceroy also referred to the demands of the minorities and gave them an assurance that full weight would be given to their views and interests.

44. The Working Committee of the Muslim League met at New Delhi on the 22nd of October to consider this declaration and while

expressing satisfaction with certain parts of the Viceroy's statement asked for further clarification which the President Mr. Jinnah was to obtain. It expressed its appreciation, that

> "His Majesty's Government have emphatically repudiated the unfounded claim of the Congress that they alone represent all India, and note with satisfaction that His Majesty's Government recognise the fact that the All-India Muslim League alone truly represents the Muslims of India and can speak on their behalf; also that the rights and interests of the minorities and other important interests concerned have been duly recognised."

It proceeded to point out that

> "The opposition of the Muslim League is not merely to the 'details' of the plans embodied in the Act of 1935 and the reconsideration thereof, but their demand is that the entire problem of India's future constitution should be wholly examined and revised *de novo*. The Committee reiterate emphatically that no future plan of India's Constitution will be acceptable to the Muslim League unless it meets with their full approval."

45. The Jamiat-ul-Ulema Conference which was held at Meerut between the 16th and the 18th of September 1939 had reiterated its faith in democratic principles and said that it always stood for the ideal of complete independence for India and that it saw no valid reason to support British Imperialism in this War. A resolution passed by the All-India Shia Political Conference at a session held at Chapra between the 29th and the 31st of December 1939 stated that "it is also necessary in the opinion of the Conference to make it clear that the Muslim League, which has always trampled upon the feelings and susceptibilities of the Shia minority, claiming in the same breath to be the only representative body of the Muslim India, is utterly wrong in its pretension because, in so far as the Shias are concerned, as a sect they have never considered the Muslim League to be their represntative and they declare that any pact which the Muslim League enters into with other bodies without consulting the Shia Political Conference will not be binding on the Shias of India." The Conference reiterated its faith in joint electorates with such reservation and weightage as exist today in the different provinces and demanded the abolition of separate electorates.

46. A few days before the outbreak of the war an All-India Anti-Communal Award Conference had been held in Calcutta under the Chairmanship of the late Sir Manmatha Nath Mukerji, at one time Acting Chief Justice of the Calcutta High Court, and had passed a resolution recording its disapproval of the Government's decision

on the communal problem inasmuch as it retained and extended the evil of separate communal electorates and provided statutory majorities with separate communal electorates, which were wholly opposed to the principle of responsible government. In their opinion the Communal Award was calculated to impede the growth of a common national feeling and to accentuate communal bitterness. It was grossly unfair to the Hindus, particularly in the Central Legislature and in the Provincial Legislatures of Bengal, the Punjab and Assam; it gave to Europeans, particularly in Bengal and Assam, excessive representation at the expense of both Hindus and Muslims.

47. On the 26th of September 1939 Lord Zetland the then Secretary of State made a statement in the House of Lords in the course of which he said "it is indeed abundantly clear that the triumph of the principles for which the Nazi Government stands would be regarded as a calamity of the utmost magnitude by all sections of India's people." He further added that in the course of a statement recently issued by the Congress Working Committee it was indicated that they would find it difficult to co-operate with Great Britain in the prosecution of war except upon conditions affecting the political relations between the two countries. "These conditions," said he, "have so far been expressed in abstract terms and I am not at present prepared to comment upon them." This statement of Lord Zetland was reviewed by Mahatma Gandhi in a statement issued on the 28th of September 1939 in the course of which he said that "if the British are fighting for the freedom of all, then their representatives have to state in the clearest possible terms that the freedom of India is necessarily included in the war aim. The contents of such freedom can only be decided by Indians and them alone. Surely it is wrong for Lord Zetland to complain as he does, though in gentle terms, that the Congress should at this juncture, when Britain is engaged in a life and death struggle, ask for a clear declaration of British intentions. I suggest that the Congress has done nothing strange or less than honourable in asking for such a declaration. Only a free India's help is of value. And the Congress has every right to know that it can go to the people and tell them that at the end of the war India's status as an independent country is as much assured as that of Great Britain."

Mahatma Gandhi then sent a message through the Manchester Guardian to the British people. In the course of that message he asked "Do the declarations (i.e., professions about democracy) or do they not include the full freedom of India according to the wishes of her people ? This is a very simple and elementary question asked by

the Congress." Pandit Jawaharlal Nehru sent a message to the News Chronicle on the 7th of October 1939 in the course of which he said "India can take no part in defending Imperialism, but she will join in a struggle for freedom. India's resources are vast but even of greater value is her goodwill and her moral support for a worthy cause. This is no small offer that India makes, for it means the ending of 100 years of hostility between India and England. Only a free and equal India can co-operate of her free will in this task."

48. It was after these and other statements by various leaders that the Viceroy issued his statement from New Delhi on the 17th of October 1939. His Excellency dealt particularly with two essential matters on which clarification of the position was desired. The first question was: what were the objectives of His Majesty's Government in the war? To what extent were they of such a character that India with her long history and great traditions could, with a clear conscience, associate herself with them? Secondly, what was the future that was contemplated in the constitutional sphere for the Indian Continent? What were the intentions of His Majesty's Government? Was it possible to define those intentions more precisely and in such a manner as left the world in no doubt as to the ultimate status envisaged for India as far as the British Commonwealth was concerned.

Lord Linlithgow's answers to these questions will appear from the following extracts from an unusually long and ponderous statement:

FIRST QUESTION:

> "We are fighting to resist aggression whether directed against ourselves or others. Our general aims have been stated by the Prime Minister within the last few days:—
>
> 'We are seeking no material advantage for ourselves. We are not aiming only at Victory, but looking beyond it to laying the foundation of a better international system which will mean that war is not to be the inevitable lot of each succeeding generation. We, like all the people of Europe, long for peace, but it must be a real and settled peace, not an uneasy truce interrupted by constant alarms and threats.'

This statement, I think, clearly establishes the nature of the cause for which we are fighting and justifies, if justification is needed, the extension by India of her moral support and her goodwill to the prosecution of that cause."

Second Question

"I cannot do better in reply to that question than to refer to the statement made on behalf of His Majesty's Government, and with their full authority, by the late Secretary of State for India in the House of Commons on February 6, 1935. That statement makes the position clear beyond a shadow of doubt. It refers to the pledge given in the Preamble of the Act of 1919, and it makes it clear that it was no part of the plan of His Majesty's Government to repeal that pledge. It confirms equally the interpretation placed in 1929 by Lord Irwin as Viceroy, again on the authority of the Government of the day, on that Preamble, that 'the natural issue of India's progress as there contemplated is the attainment of Dominion Status.' I need not dilate on the words of that statement. They are clear and positive. They are enshrined in the Parliamentary record. They stand as a defintie and categorical exposition of the policy of His Majesty's Government today, and of their intention today in this end—the future constitutional development and position of India. I would add only that the Instrument of Instructions issued to me as Goveror-General by His Majesty the King Emperor in May 1937 lays upon me as Governor-General a direction so to exercise the trust which His Majesty has reposed in me 'that the partnership between India and the United Kingdom within our Empire may be furthered to the end that India may attain its due place among our Dominions'."

"His Majesty's Government recognise that when the time comes to resume consideration of the plan for the future Federal Government of India, and of the plan destined to give effect to the assurances given in Parliament by the late Secretary of State, to which I have just referred, it will be necessary to reconsider in the light of the then circumstances to what extent the details of the plan embodied in the Act of 1935 remain appropriate. And I am authorised now by His Majesty's Government to say that at the end of the war they will be very willing to enter into consultation with representatives of several communities, parties, and interests in India, and with the Indian Princes, with a view to securing their aid and co-operation in the framing of such modifications as may seem desirable."

The Viceregal pronouncement was, said Mahatma Gandhi, "profoundly disappointing." He added "So far as I can see, the Congress will be no party to it nor can the India of Congress conception be a partner with Britain in her war with Herr Hitler."

49. The Congress Working Committee met at Wardha on the 22nd and 23rd of October to consider the statement of the Viceroy and condemned it as

> "wholly unsatisfactory and calculated to rouse resentment among all those who were anxious to gain, and are intent upon gaining India's independence. The Viceregal statement is an unequivocal reiteration of the old imperialistic policy. The Committee regard the mention of the differences among several parties as a screen to hide the true intention of Great Britain. What the Committee had asked for was a declaration of war aims as a test of Britain's *bona fides* regarding India, irrespective of the attitude of opposing parties and groups. The Congress has always stood for the amplest guarantee of the rights of the minorities. The freedom the Congress claimed was not for the Congress or any particular group or community, but for the nation and for all communities in India that go to build that nation. The only way to establish that freedom and to ascertain the will of the nation as a whole is through a democratic process which gives full opportunity to all. The Committee must, therefore, regard the Viceroy's statement as in every way unfortunate. In the circumstances, the Committee cannot possibly give any support to Great Britain, for it would amount to an endorsement of the Imperialist policy which the Congress has always sought to end. As a first step in this direction the Committee call upon the Congress Ministries to tender their resignations."

50. As a result of the instructions issued in pursuance of the Working Committee's resolution, the Congress Ministries in seven provinces, i.e., Madras, Bombay, United Provinces, Bihar, Orissa, North-West Frontier Provinces and Central Provinces, tendered their resignations between the 27th of October and the 8th of November 1939. A Proclamation was issued in each of these Provinces under section 93 of the Government of India Act, 1935. The entire field of administration was taken over by the Governors in all these Provinces except the N.-W. F. P. Here, a Muslim League Government was formed first and in recent months that Government has been displaced and Congress has resumed office. In the other six Provinces, the Governors have been both *de jure* and *de facto* autocrats; the association with them of Advisers drawn from the bureaucracy subordinate to them has made little difference. The suspension of the legislatures, especially at a time when war-time restrictions on personal and press liberties were being rigorously enforced, has, during the last 6 years, denied all opportunity for criticism and effective

representation, and the common people have been exposed to the tender mercies of incompetent, and not unoften corrupt, officials unhampered by any fear of exposure at the hands of representative men able to function in a privileged form and to exert constitutional pressure on those in power. The Governors have, accordingly, on their own, legislated, administered, and taxed; and it is only human nature that, having exercised unrestricted power for the best part of six years, they have even after the end of the war exhibited no great hurry in parting with it and restoring the normal constitutional machinery.

Referring to the policy of Section 93, the Joint Parliamentary Committee stated:

> "We do not read the White Paper as meaning that the Governor, in the event of a breakdown of the constitutional machinery, is bound to take over the whole Government of the Province and administer it himself on his own undivided responsibility. We conceive that the intention is to provide also for the possibility of a partial breakdown and to enable the Governor to take over only part of the machinery of Government, leaving the remainder to function according to the ordinary law. Thus, the Governor might, if the breakdown were in the legislative machinery of the Province alone, still carry on the government with the aid of his ministers, if they were willing to support him. We are speaking, of course, of such a case in the refusal of the legislature to function at all and not merely of lesser conflicts or disputes between it and the Governor."

In the situation created by the resignation of the Congress Ministries in October-November 1939, there was only a partial breakdown, viz., of the normal executive machinery. There was no direction by the Congress that its representatives should refuse to function as legislators. Even if it had issued such a direction and Congress legislators had boycotted the sittings of the legislature, at least the non-Congress legislators would, as on several occasions in the Central Legislative Assembly, have had opportunities of criticism and debate, if, in view of the circumstances under which action under Section 93 had to be taken, Governors or their Advisers could not subject themselves to the risk of owning statutory or constitutional responsibility for accepting or acting on the views favoured by the majority of the legislators present at a sitting. Section 93 confers very wide powers, but they have so far not been applied, owing to the caution and restraint which their exercise demands.

The result may be briefly summed up. The federal part of the Act of 1935 has never been brought into force; it was deliberately put in indefinite cold storage even as regards British India on the outbreak of the War. The Centre is still functioning under the provisions of the Act of 1919. The resignation of Congress Ministries in October-November 1939 gave the excuse for suspending in those Provinces the new constitution—which had been introduced therein only a little over 2 years previously—in respect of the functioning of both the legislature and the executive. The administration of these provinces during the last six years has been put back by over half-a-century to the state of things prior to 1892, with the difference that while members of the Executive Council of a Governor before 1892 had statutory recognition and powers of their own, the Advisers to a Governor between 1939 and 1945 could make no such claim. So far as the Constitution and functioning of the legislature and executive are concerned, the Act of 1935 has no application to the centre, and in the Congress Provinces, it has suffered a complete eclipse.

51. The Ministers' resignations were followed by a meeting of the Working Committee of the Congress held at Allahabad between November 9 and November 23, 1939. They reviewed the situation and passed a resolution in the course of which they said that the recognition of India's independence and of the right of her people to frame their Constitution through a Constituent Assembly, was essential in order to remove the taint of Imperialism from Britain's policy and to enable the Congress to consider further co-operation. They held that a Constituent Assembly was the only democratic method for determining the constitution of a free country, and for solving the communal and other difficulties. The Constituent Assembly should in their opinion be elected on the basis of adult suffrage, existing separate electorates being retained for such minorities as desired them.

52. Meanwhile on the 1st of November 1939 Mahatma Gandhi, Mr. Jinnah and Dr. Rajendra Prasad had a joint conference with His Excellency the Viceroy at New Delhi. After a general discussion the meeting was adjourned. On the 2nd of November it appears that Mahatma Gandhi had a conversation with Mr. Jinnah and hopes were entertained that joint proposals might be placed before the Viceroy for the settlement of the immediate political difficulties. On the 4th of November the Mahatma had another interview with the Viceroy and Mr. Jinnah had also a separate interview. No settlement was reached and on the 5th of November, the Viceroy, in a broadcast message to the people, stated "I am not prepared to

accept this failure. I propose in due course to try again in consultation with the leaders of these great political parties and the Princes to see if even now there may still be possibility of securing unity."

53. On the 6th of December Mr. Jinnah, President of the Muslim League called upon Mussalmans all over India to observe, Friday the 22nd of December as the day of deliverance and thanksgiving—as a mark of relief that the Congress Governments had at last ceased to function.

Three days later Mahatma Gandhi made an appeal to Mr. Jinnah and Muslims in general to refrain from observing this day in view of the communal unity talks which were either in progress or expected to take place. Mr. Jinnah did not respond to the appeal. The day of deliverance was observed all over India on the 22nd December 1939. The breach between the two organisations—Congress and Muslim League—could not have been more complete than it was at that time.

54. The correspondence which had passed between him and Pandit Jawaharlal Nehru regarding Congress-League differences was published in January, 1940. Mr. Jinnah laid emphasis upon the League demand for recognition as the authoritative and representative organisation of Muslims in India, and declined to endorse the Congress demand for a declaration by Britain of her war aims in terms of the Congress Working Committee's resolution on the subject. On the other hand Pandit Jawaharlal Nehru after defining the Congress attitude stated that the Congress regarded the League as an influential organisation of Moslems but not as the sole representative of the Moslems of India. He added that as he and Mr. Jinnah had not found common ground for discussion the continuance of negotiations could serve no useful purpose.

While the situation as it had developed so far was causing much anxiety Lord Linlithgow made a very important speech at the Orient Club at Bombay on the 10th of January, 1940 and it revived some hope in Congress ranks of the possibility of getting out of the deadlock and moving forward. After reiterating a good deal of what he and His Majesty's Government had been saying already, he said:—

> "Justice must be done as between the various parties, and His Majesty's Government are determined to see justice done. But I would ask my friends in the various parties to consider whether they cannot get together and reach some agreement between themselves which would facilitate my task, and the task of His Majesty's Government in dealing with this vital question of Indian constitutional progress; and I would venture again to

emphasise the case for compromise, the case for avoiding too rigid an approach to problems such as those with which we are dealing today."

"As to the objective there is no dispute, I am ready to consider any practical suggestion that has general support, and I am ready, when the time comes, to give every help that I personally can. His Majesty's Government are not blind—nor can we be blind here—to the practical difficulties involved in moving at one step from the existing constitutional position into that constitutional position which is represented by Dominion Status. But here, again, I can assure you hat their concern and mine is to spare no effort to reduce to the minimum the interval between the existing state of things and the achievement of Dominion Status."

55. On the 19th of January 1940, the Congress Working Committee met to review the political situation. It considered the Viceroy's statement an advance on previous declarations made on behalf of the British Government, and decided that with a view to ending the deadlock then existing Mr. Gandhi should interview the Viceroy to get certain points in his speech clarified. The subsequent negotiations, however, failed.

About the same time the summary of an article written by Mr. Jinnah in the "Time and Tide" was given publicity in India. In this article, he said that "Western Democracy was totally unsuited for India, and that its imposition on India was the disease in the body politic, and he demanded that a constitution must be evolved that recognised the existence of two nations in India both of whom must share the governance of their common motherland."

On the 16th of February 1940 Maulana Abul Kalam Azad was elected President of the Congress securing a majority of 1671 votes. The Maulana polled 1854 votes as against 183 secured by his rival Mr. M. N. Roy.

On the 25th of February, Mr. Jinnah, at a meeting of the Council of the All-India Muslim League, asked for a clear statement on behalf of the British Government that the present Act of 1935 should go lock, stock and barrel, and that the entire scheme of constitutional reform should be examined *de novo* in the light of experience gained from the working of the constitution during the previous two years and in the light of experience which might be gained in the future.

The Indian National Congress held its 53rd Session at Ramgarh on the 19th of March 1940, and passed a comprehensive resolution, which caused much anxiety and concern in the country for, though no Civil

Disobedience was started, yet the possibility of it was foreshadowed and it was stated that the resignation of Ministers in the Congress majority Provinces must naturally be followed by Civil Disobedience. Tension became wider than ever before. Satyagraha preparations in certain provinces followed. Arrests and prosecutions of Congressmen in various Provinces also took place.

56. On the 23rd of March 1940 the Muslim League again met at Lahore and passed the now famous 'Pakistan Resolution' which is printed as an Appendix at pages 83 and 84 of the pamphlet issued by the Central Office of the All-India Muslim League entitled 'Jinnah-Gandhi Talks'. It has been analysed fully in Pamphlet No. 3 issued by this Committee. In substance it said that Muslim India would not be satisfied unless the whole constitutional plan was reconsidered *de novo* and that no revised plan would be acceptable to the Muslims unless it was framed with their approval and consent. It proceeded to lay down the basic principles of the constitutional plan. These were:

(a) Geographically contiguous units must be demarcated into regions.

(b) Such territorial re-adjustments should be made as may be necessary.

(c) The areas in which the Muslims are numerically in a majority, as in the North-Western and Eastern zones of India, should be grouped to constitute Independent States.

(d) The constituent units of these Independent States should be autonomous and sovereign.

A demand was then made for specific safeguards for minorities in these units for the protection of their religious, cultural, economic, political, administrative and other rights and interests. The Working Committee was to frame a scheme of constitution in accordance with the basic principles and providing for the assumption finally by the respective regions of all powers, such as, Defence, External Affairs, Communications, Customs and such other matters as may be necessary. The underlying principles and the details of this resolution will be discussed in a later chapter. Meanwhile it is sufficient to point out here that from this moment forward the communal politics of the country took a different turn.

57. On the 6th of April in the 'Harijan' Mahatma Gandhi expressed the view that the step taken by the Muslim League at Lahore had created a baffling situation, but that he did not regard it so baffling as to make Civil Obedience an impossibility. "Let me, how-

ever," said he, "say in parenthesis that until the conditions I have mentioned for the starting of Civil Disobedience have been fulfilled, Civil Disobedience cannot be started in any case."

A few days later Master Tara Singh presiding at the First U.P. Sikh Conference at Lucknow said that "If the Muslim League wanted to establish Pakistan they will have to pass through an ocean of Sikh blood." Mr. Aney, leader of the Congress Nationalist Party in the Assembly told a public meeting that 'destructive and hostile forces would spring up from unexpected quarters leading the country into unprecedented chaotic conditions if Satyagraha was launched by the Congress at this inopportune moment.' The Pakistan resolution was, however, suported by Muslim Leaguers in various districts, but it was severely opposed by Congressmen.

The growing gravity of the internal situation was recognised by Mr. Jinnah himself who found it necessary to explain that the League had caused, and would cause no embarrassment to the British Government in the prosecution of the war and that the Provinces where the Muslim League had a dominant voice had been left free to cooperate with the British Government. Meanwhile the war situation in the West had become very grave and the Viceroy broadcast a message from Simla on the 19th of June 1940 assuring the people that no effort was spared to bring the defence arrangement of India to the highest pitch and urged them not to yield to panic. Ten days later a fresh interview took place between Mahatma Gandhi and the Viceroy which lasted for nearly three hours. As apparently differences had arisen inside the Congress, Mahatma Gandhi stated in his paper that he could no longer guide the general policy of the Congress when fundamental differences were discovered between the Congress and himself.

58. In July 1940 the Viceroy had a conference with various leaders. On the 7th of July, an emergency meeting of the Congress Working Committee at New Delhi passed a resolution stating that Britain should immediately make an unequivocal declaration giving complete independence to India and that as an immediate step in giving effect to it a provisional National Government should be constituted at the Centre and that this Government should be so constituted as to command the confidence of all the elected elements in the Central Legislature and secure the closest co-operation of the responsible governments in the Provinces. Mr. Jinnah at once denounced the resolution. He said that the so-called National Government meant a Congress Raj and therefore a Hindu majority Government, a position which could never be accepted by the Muslims.

He declared that the Muslim League now firmly stood convinced that the only solution was a division of India.

Mr. V. D. Savarkar considered that the suggestion of the Congress Working Committee to form a national Government as an immediate step was less progressive than the Mahatma's demand that India should be granted Dominion Status immediately on the cessation of the War. He also objected to the formation of any National government, if it was to be formed from among the members of the Central Assembly.

59. On the 7th of August 1940, the Viceroy issued a statement from Simla in the course of which he said that His Majesty's Government had authorised him to invite a certain number of representative Indians to join the Executive Council, and to establish a War Advisory Council, which would meet at regular intervals and which would include representatives of Indian States and of other interests in the national life of India as a whole.

Two important pronouncements were included in this statement by the Viceroy, one on the position of minorities in relation to any future Constitutional scheme and the other on the machinery for framing the new Constitution. On the first, after reiterating that full weight would be given to the views of the minorities in any revision, he added:

> "It goes without saying that they could not contemplate the transfer of their present responsibilities for the peace and welfare of India to any system of Government whose authority is directly denied by large and powerful elements in India's national life nor could they be parties to the coercion of such elements into submission to such a Government."

On the second, he said:

> "His Majesty's Government authorise me to declare that they will most readily assent to the setting up, after the conclusion of the War, without the least possible delay, a body representative of the principal elements in India's national life, in order to devise the framework of the new constitution, and they will lend every aid in their power to hasten decisions on all relevant matters to the utmost degree. Meanwhile they will welcome and promote in any way possible every sincere and practical step that may be taken by representative Indians themselves to reach a basis of friendly agreement, firstly, on the form which the post-war representative body should take and the methods by which it should arrive at its conclusions, and, secondly, upon the principles and outlines of the Constitution itself."

The Muslim League's reaction to the first of the pronouncements is referred to below, so far as the Congress is concerned. This declaration provided for the expansion of his Executive Council and not the formation of a National Government such as had been demanded by the Congress but it conceded the demand that the Constitution of India should be framed by a representative body to be called into existence after the war.

60. The late Sir Nripendra Nath Sircar, who had been a distinguished member of the Viceroy's Council referring to this statement and the declaration of the Viceroy observed:—

> "The most valuable and welcome features of the statement of H.E. the Viceroy are—
>
> (1) that communal unity is not made a condition precedent to constitutional advance;
>
> (2) a War Advisory Council is now to be set up; and
>
> (3) the forum to be established for helping in the decision of constitutional issues 'will be a body representative of the principal elements in India's national life.'

On the 22nd of August, the Congress Working Committee considered the Viceroy's latest pronouncement and said:

> "The proposals contained in the Viceroy's statement of August 8 last, and the Secretary of State's speech in the House of Commons on August 14, are wholly opposed not only to the principle of democracy acclaimed by the British Government in their war aims, but are also opposed to the best interests of India and, therefore, the Congress cannot be a party to accepting these proposals or advising the country to accept them."
>
> "The Committee considered that the declaration and offers not only fell far short of the Congress demand but would prove an impediment in the way of the evolution of a free and united India. The Working Committee, therefore, called upon the people of India to condemn the attitude of the British Government by holding public meetings and other methods and also through their elected representatives in the Provincial Legislatures. The Committee also noted with deep regret that the British Government rejected 'the friendly offer and practical suggestions contained in the Poona resolution of the All-India Congress Committee."

On the 2nd of September 1940 the Working Committee of the All-India Muslim League adopted certain resolutions on the Viceroy's statement. The first of these said that the Committee considered that

the Viceregal statement and Mr. Amery's clarification constituted a considerable progressive advance towards the view-point taken up by the All-India Muslim League regarding the problem of the future constitution of India and recorded the Committee's satisfaction that "His Majesty's Government have, on the whole, practically met the demand of the Muslim League for a clear assurance that no future Constitution, interim or final, will be adopted by the British Government without the Muslim League's approval and consent." Another resolution reiterated the League's faith in the Pakistan Scheme adopted at the Lahore session of the Muslim League.

About the middle of September, 1940, the All-India Congress Committee met at Bombay and Maulana Abul Kalam Azad, President of the Congress announced that Mahatma Gandhi had once again agreed to take up the active leadership of the Indian National Congress. On the 18th of September the Working Committee of the Congress concluded its session in Bombay and passed the following resolution:—

> "In view of the resolution just passed by the All-India Congress Committee, the Working Committee call upon all Congress organisations to stop all civil disobedience, individual or other, pending definite instructions from Mahatma Gandhi. He regards this suspension as indispensable for his forthcoming interview with His Excellency the Viceroy and as a test of discipline of registered and unregistered Congressmen and all Congress-minded men and women, and also as a short course of obedience to law before the course of Civil Disobedience, should it become necessary."

A prolonged conference followed soon after between the Viceroy and Mahatma Gandhi but yielded no results.

61. The Viceroy had apparently sent a letter to the President of the Muslim League on the 14th of August, containing a specific offer in regard to the proposed expansion of the Governor-General's Executive Council and the establishment of a War Advisory Council. The Working Commtitee of the All-India Muslim League passed a resolution on the 28th of September expressing its regret that they were unable to accept the offer of the Viceroy. It said "The Working Committee of the All-India Muslim League at their meeting at Bombay on September 2 last, after considering the letter of His Excellency the Viceroy, dated August 14 last and addressed to the President containing a specific offer in regard to the proposed expansion of the Governor-General's Executive Council and the establishment of a War Advisory Council requested His Excellency to reconsider the

matter and authorised the President to seek further information and clarification, particularly on the points set out in the resolution before they could deal with the offer." Addressing the Council of the All-India Muslim League on the subject of the Viceroy's offer Mr. Jinnah observed on the 29th of September as follows:—

> "Two seats on the Governor-General's Executive Council will be allotted to the nominees of the Muslim League out of a number we do not know yet."

Mr. Jinnah urged that, should any party now refusing to co-operate later decide to accept the Viceroy's offer, its nominees should be allowed to join the Council only in agreement with the parties already represented. If the Congress came in, Muslim representation should be equal to that of the Hindus, otherwise they (Muslims) should have the majority of the additional seats as 'in that case the main burden and responsibilities will be borne by Muslims.'

62. Lord Linlithgow wrote to Mahatma Gandhi on the 30th of September and said "it would clearly not be possible, in the interests of India herself, more particularly at this critical juncture in the war, to acquiesce in interference with the war effort which would be involved in freedom of speech as wide as that for which you have asked." The Viceroy also said that "the action suggested by Mahatma Gandhi would certainly amount not only to an inhibition of India's war effort but to the embarrassment of Great Britain in the prosecution of the war which the Congress said it was anxious to avoid." In the course of his reply Mahatma Gandhi said "It is unfortunate that we have not been able to arrive at an agreement on the single issue of freedom of speech. But I shall hug the hope that it will be possible for the Government to work out their policy in the spirit of the Congress position." He also declared that the Congress still desired to refrain from embarrassing the British Government but it was impossible for the Congress to make a fetish of such policy by denying its creed. He added "if the Congress has to die it should do so in the act of proclaiming its faith." Mr. Gandhi issued a statement on his interview with the Viceroy. He paid a tribute to him for his courtesy and patience, but complained of the British view that lack of communal agreement barred the way to freedom. He added that "the immediate issue is the right to exist, which broadly put, means free speech. This the Congress wants not merely for itself but for all."

In accordance with the Congress Working Committee's resolution, Mr. Gandhi assumed the responsibility of starting 'Selective Civil Disobedience." At his direction, Mr. Vinobha Bhave made

speeches explaining why Congress was opposed to India's participation in the war. He was arrested under the Defence of India Rules when he was preparing to make his fifth speech and was sentenced to three months' simple imprisonment.

At the end of October 1940 Pandit Jawaharlal Nehru was arrested at Chheoki when he was returning from Wardha after visiting Mahatma Gandhi. Two days later his trial began in the District Jail at Gorakhpur and on the 5th of November he was sentenced by the District Magistrate of Gorakhpur to an aggregate term of four years' rigorous imprisonment on three counts.

A few days later the Congress Working Committee passed a resolution at Wardha permitting the Congress members of the Central Legislative Assembly to attend a meeting of the Assembly to oppose the annual Finance Bill which would provide funds for meeting the expenditure on the War.

63. While individual civil disobedience was in progress and was evoking conflicting views from different Indian quarters the Viceroy addressed both Houses of the Legislature on the 20th of November and referring to the proposal to expand his Executive Council he observed that he did not secure the response that was hoped for from political leaders in India. He made it clear, however, that His Majesty's Government did not propose to withdraw the offer and were still prepared to give effect to it when they were sure of its receiving representative support.

64. The Finance Bill to which reference has been made was rejected by the Assembly but certified by the Governor-General. Then followed the arrests and conviction of certain important Indian politicians, such as, Pandit Govind Vallabh Pant, ex-Premier of the U.P., Dr. T. S. S. Rajan, and Mr. T. Prakasam, ex-Ministers of Madras, Mr. Srikrishna Sinha, ex-Premier of Bihar, Mr. C. Rajagopalachari, ex-Premier of Madras, Mr. Biswanath Das, ex-Premier of Orissa, Mrs. Vijayalakshmi Pandit, ex-Minister of U.P., Mrs. Sarojini Naidu and Mr. Bhulabhai Desai, members of the Congress Working Committee. Sardar Vallabhbhai Patel was also detained under section 26 of the Defence of India Act.

More and more stress was laid by Mr. Amery in England and Lord Linlithgow in India on the parties getting together for composing their differences.

65. In February 1941, Mr. Jinnah issued a statement in the course of which he said "My attention has been drawn to a report under the heading 'Revised Pakistan Scheme Committee's Recommendations' published in a newspaper today (18th). This is cer-

tainly incorrect. After the Lahore resolution, now popularly known as the Pakistan Resolution was passed last March, the Working Committee of the All-India Muslim League appointed a Sub-Committee to invite any proposal on the basis of the fundamental principles of the Lahore Resolution. The Foreign Committee of the All-India Muslim League published details of the Pakistan Scheme which would be discussed at the meeting of the Working Committee. Three zones were contemplated—North-West, North-East, and Hyderabad with certain additions, Sind, Baluchistan, the Frontier Province, and the Punjab, with Delhi would constitute a sovereign State."

Mr. Amery's speech delivered in December 1940 in which he had pleaded for 'India First' being the proper slogan for India at this juncture had attracted considerable notice in India. It met, however, with strong disapproval from the Muslim League.

More and more stress was laid by Mr. Jinnah and other Muslim League leaders on Pakistan. Early in March Mr. Jinnah at the Special Pakistan Session of the Punjab Muslim Students' Federation at Lahore, asserted that the Pakistan Scheme was the best and only solution for India's most complex problem, for which there was no parallel in the world.

66. About the same time an Anti-Communal Conference was held at Lahore which was presided over by Khan Abdul Ghaffar Khan, which passed a resolution condemning the Pakistan scheme as 'highly unpatriotic, anti-national and against the best interests of the country.' The Working Committee of the All-India Hindu League also met in February 1941 and adopted a resolution against the demand of Pakistan.

67. In March 1941, when the differences between the different political parties were getting acute a Non-Party Conference presided over by Sir Tej Bahadur Sapru was held at Bombay. He made an earnest appeal to the Congress and the Muslim League to meet and discuss among themselves and to devise a formula for the settlement of outstanding disputes. A resolution to the following effect was adopted at the Conference:—

> "While India should not take advantage of Britain's difficulties in her heroic struggle, the Conference is equally desirous that India's domestic problems should not be pressed to her disadvantage. As a first step towards the removal of the present deadlock and until a permanent constitution is brought into force, the Conference desires to emphasise the immediate need for the reconstruction of the Governor-General's Executive Council."

"The Conference considers that the present Council, which consists of three European members from the Indian Civil Service, and three Indians of whom two are non-officials and one is a member of the Indian Civil Service, in addition to H. E. the Viceroy and H. E. the Commander-in-Chief, is neither adequate nor sufficiently representative to organise and direct India's war efforts at this moment of grave peril. This Conference is anxious that India's defence should be put on a firm basis and that the resources of this country in men and material should be used to the fullest advantage not only for defending her own frontiers but for helping the British people to the fullest extent possible consistently with the best interests of India."

"For the reasons mentioned above, this Conference is of the opinion that the whole Executive Council should consist of non-official Indians drawn from important elements in the public life of the country. This would naturally involve the transfer of all portfolios including the vital ones of Finance and Defence, to Indians."

"The Conference would be content during the period of the war that the reconstructed centre remains responsible to the Crown: and so far as Defence is concerned, the position of the Commander-in-Chief as the Executive head of the Defence forces of the country should not be in any way prejudiced. At the same time the Conference is strongly of the view that the reconstructed Government should not merely be a collection of departmental heads but should deal with all important matters of policy on a basis of joint and collective responsibility. In regard to all inter-imperial and international matters, the reconstructed Government should be treated on the same footing as the Dominion Governments."

"The Conference is further of the opinion that with a view to create a favourable atmosphere for the working of the reconstructed Central Government it is necessary to remove the doubts and misgivings of the people of this country as regards the genuineness of the intentions of His Majesty's Government by making a declaration simultaneously with the reconstruction of the Government, that, within a specified time-limit after the conclusion of the war India will enjoy the same measure of freedom as will be enjoyed by Britain and the Dominions."

This resolution was moved by Sir N. N. Sircar and was supported by Sir Jagadish Prasad, both of whom had recently retired from the Governor-General's Executive Council, and by various other leaders

who were present there. Both this resolution and the statement issued by the Standing Committee of the Non-Party Conference were severely criticised by Mr. Jinnah. He expressed the view that the scheme put forward by the Non-Party Conference, if accepted by the British Government would mean the cancellation of the declaration of August 8 and would constitute the grossest breach of faith with Muslim India and other minorities. He further urged that the underlying idea of the Conference and the Standing Committee was to get the British Government by hook or crook to denounce and reject the Muslim League demand for the partition of India.

In April 1941, in the House of Commons, after a courteous reference to the Non-Party Conference at Bombay, Mr. Amery made certain observations on its resolution which must find a place in this narrative. He said:

(a) "The scheme proposed by the resolution (of the Non-Party Conference) would amount not to a modification of the present form of government but to its suppression by an entirely different type of government. That is certainly something going beyond what we think practicable in the midst of the ever increasing strain and urgency of the war situation."

(b) "It is unfortunately already evident that Sir Tej Bahadur Sapru and his friends have not been able to secure beforehand for their scheme any kind of agreement if not between the Congress and the Muslim League—at any rate between the latter and other representatives of Hindu majority. Mr. Jinnah, leader of the Muslim League, has since repudiated it as being on 'entirely wrong lines' and as a trap into which Sir Tej Bahadur Sapru has been led by Congress wire pullers. On the other hand, the General Secretary of the Mahasabha Party has declared that it will not co-operate in any scheme in which the numerical majority of the Hindu element is not reflected in the composition of the Council. There is obviously no such agreement there as would afford the reconstructed Council political support, or even acquiescence in the Legislature. On the other hand, if the reconstructed Council is to be composed not of leaders, who between them can secure some measure of political backing, but of men individually eminent but politically unsupported then the objections which weighed against that course in the case of an expansion of the existing Council be-

come much more formidable if it is a question of an entirely new Council with greatly enlarged powers."

This speech of Mr. Amery called forth a statement from Mahatma Gandhi and from the Standing Committee of the Non-Party Conference and Sir Tej Bahadur Sapru. The principle propounded by Mr. Amery, namely, that the previous consent of all the parties to any suggestion regarding any constitutional change was the *sine qua non*, was vigorously criticised and Mr. Jinnah's suggestion that there had been manoeuvring on the part of the Congress was very strongly repudiated.

68. It is not necessary to refer in detail to other events until we come to the middle of June 1941. The communal situation in different parts of the country had become very tense. It was discussed at a Conference of the Bengal Congress Workers on the 23rd of June 1941, Dr. Rajendra Prasad taking part in it. Unfortunately Hindu-Muslim riots broke out again at Dacca. Dr. Rajendra Prasad visited the town and urged the formation of peace committees with men of different communities.

69. On the 21st of July 1941 two important events took place. These were the expansion of the Governor-General's Executive Council and the formation of the National Defence Council. The official communique stated that, as a result of the increased pressure of work in connection with the war, it had been decided to enlarge the Executive Council of the Governor-General. The following additional members were appointed:—

Member for Supply—Sir Hormusji P. Mody;
Member for Information—The Rt. Hon. Sir Akbar Hydari;
Member for Civil Defence—Dr. E. Raghavendra Rao;
Member for Labour—Malik Sir Feroz Khan Noon;
Member for Indians Overseas—Mr. M. S. Aney.

It was also stated that when Sir Mohammad Zaffarullah Khan and Sir Girja Shankar Bajpai took up the posts to which they had recently been appointed the following new members would be appointed:—

Member for Law—Sir Sultan Ahmed.
Member for Education, Health and Lands—Mr. Nalini Ranjan Sarkar.

The communique added that H. E. the Commander-in-Chief, Sir Reginald Maxwell, Sir Andrew Clow, Sir Jeremy Raisman and Sir A. Ramswami Mudaliar would continue to be members of the Council. The strength of the Council was thus raised to 12 and out of

these 12, 8 were Indians and 4 Europeans. Similarly a National Defence Council consisting of about 30 members and including representatives of Indian States as well as the Provinces and of other elements in the national life of British India in its relation to war effort was brought into being.

The announcement of the Viceroy regarding the expansion of the Executive Council called forth immediately two statements: one from Mr. Jinnah and the other from Mr. Savarkar on the 22nd of July 1941. Mr. Jinnah squarely condemned the Viceroy's action to which Muslim India would not extend wholehearted, willing or genuine support. The nominees of the Viceroy on the expanded Council were neither real representatives of the people nor would they command the confidence and trust of the Muslims. Mr. Jinnah took exception to the Viceroy canvassing for these offices members of the Muslim League over the head of the leader and the executive of the party, and threatened disciplinary action against the Muslim League Premiers and the members of the League who had associated themselves with the Viceroy's scheme without reference to, or knowledge of, the executive of the League.

Mr. Savarkar, on the other hand, welcomed the announcement of the expansion of the Executive Council and the Constitution of the National Defence Council, and of the Defence Advisory Committee, as steps in the right direction, but deplored that they were belated and halting and were not accompanied by any improvement in the political status of India.

A White Paper and the speeches of Mr. Amery in the House of Commons explained that though no constitutional change was involved in the Viceroy's announcement and the enlarged Executive Council would not be responsible to the Legislature, the Viceroy would now have what to all intents and purposes was a War Cabinet with a marked majority of Indian public men, instead of the former European and official majority. The new members of the Council were, in Mr. Amery's opinion, as representative of, and as responsive to, public opinion as the refusal of the Indian Congress and the Muslim League to co-operate made possible. Constitutional changes in India, it was stressed, were quite impracticable while the British Empire was engaged on a vital struggle for its existence and agreement between major political parties and interests in India was a fundamental condition of consideration of any new constitutional scheme. The following extracts from Mr. Amery's speeches in the House during the debates which commenced on 1st August 1941 are noteworthy:—

(1) "It is today a matter of general acceptance that India should, as soon as practicable, attain to Dominion Status, or as I prefer to describe it to a free and equal partnership in the Briitsh Commonwealth. Today, the major issue is not whether India should govern herself but how she is to govern herself; under what type of constitution it is possible to **preserve her unity** and yet secure freedom and reasonable self-expression for the varied elements which compose her national life."

"Six years ago that issue had hardly loomed over the horizon. We knew there was the communal problem and we assumed that we had met it by providing for separate communal franchise. We knew there were hesitations by the Princes as to the surrender of their powers and we provided specially favourable terms in order to induce them to come in. But we and Indain Political leaders alike took it for granted that the Central Government of India should follow the customary lines of our British system of responsible parliamentary government and the Act of 1935 was framed on that assumption."

(2) "In India experience of party Government in the provinces has rightly or wrongly convinced great and powerful elements in Indian national life that their lives and their liberties would not be assured under the central provisions of the present Act or under any amendment of it which would still leave the Executive control of all India in the hands of a Government, dependent upon a parliamentary majority from day to day which, in its turn, obeys unswervingly the dictates of an outside executive. This reaction against the dangers of what is called the Congress Raj or the Hindu Raj has gone so far as to lead to a growing demand from Moslem quarters for a complete breaking up of India into separate Hindu and Moslem dominions. **I need say nothing today of the manifold, and to my mind, insuperable objections to such a scheme, at any rate in its extreme form. I would only note that it merely shifts the problem of permanent minorities to somewhat smaller areas without solving it. It is a counsel of despair and, I believe, wholly unnecessary despair,** for, I do not doubt that there is enough constructive ability and enough natural goodwill among the Hindus and Moslems and enough Indian patriotism to find a constitu-

tional solution which will give fair recognition to all communities and all interests."

(3) "The declaration came as a welcome assurance to the Moslems and other important elements that their fate would not be settled over their heads by some deal between the British Government and the Congress Party. On the other hand, it is perfectly true that it did come as a shock not only to the Congress but also to many other moderate elements in India and even here because it made clear that a new stage must inevitably intervene before India could attain her goal."

(4) Referring to the session of the Non-Party Conference which had met about that time in Poona Mr. Amery observed as follows:—

"I should like to correct a misapprehension which, judging by the terms of another resolution passed by the same Conference, seems to have been entertained—at any rate in some quarters—and that is in insisting upon agreements between the principal elements in India's national life. The British Government were only thinking of the major political parties. The main elements in India's national life include not only political organisations or great religious and cultural communities, but they also include geographical and administrative elements, provinces of British India, more especially those which have not thrown away the responsibilities of self-government, and Indian States."

70. On the 22nd of August 1941 a deputation of the Muslim Members of the Punjab Legislative Assembly led by Sir Mahomed Shah Nawaz Khan of Mamdot saw Mr. Jinnah in Bombay. The members of the deputation had a long discussion with Mr. Jinnah on the disciplinary action which he and the League proposed to take against the members of the League who had joined the Viceroy's Executive Council and the National Defence Council. The disciplinary action was taken and at the direction of the Working Committee all the Muslim League members who had occupied office on these two bodies resigned except Sir Sultan Ahmed and Begum Shah Nawaz who were expelled from the League.

Meanwhile it was becoming clear that, while on the one hand the Communal Award was being attacked and voices were being raised against the demand of Pakistan, on the other the Muslim demand of Pakistan was being pressed from day to day from different platforms.

71. Reference may here be made to the Atlantic Charter which was in the nature of a declaration and which was issued on the 14th of August 1941 as a result of a conference held at sea between the President of the U.S.A. Mr. Roosevelt and the Prime Minister of England, Mr. Churchill representing His Majesty's Government in the United Kingdom. The third clause of this declaration was as follows:—

> "They respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them."

The Charter produced a good impression in India. Mr. Churchill, however, marred this by a speech in the House of Commons on September 9 in which he said:

> "The joint declaration does not qualify in any way the various statements of policy which have been made from time to time about the development of constitutional government in India, Burma or other parts of the British Empire. We are pledged by the Declaration of August 1940 to help India to obtain free and equal partnership in the British Commonwealth of races, subject, of course, to the fulfilment of the obligations arising from our long connection with India and our responsibilities to its many creeds, races and interests."

This statement of Mr. Churchill came to be understood as implying that the principles of the Atlantic Charter would have no application to India, and was strongly resented by practically all sections of the people. Sir Sikander Hyat Khan, the Premier of the Punjab criticised Mr. Churchill's reference to India in connection with the Atlantic Charter and demanded that a fresh announcement should be made in simple and unambiguous terms and without being hedged in by avoidable qualifications. The Atlantic Charter and the expansion of the Viceroy's Executive Council formed the subject-matter of three adjournment motions in the Central Legislature and a few days later the Working Committee of the All-India Muslim League met at Delhi to consider how best to demonstrate, in the Central Assembly session, Muslim India's resentment and disapproval of the manner in which the expansion of the Governor-General's Executive Council was carried out and the National Defence Council was constituted and of the attitude of the Viceroy and His Majesty's Government revealed by these and other recent acts and pronouncements. The Muslim League Party in the Central Legislature, at a

meeting presided over by Mr. Jinnah, unanimously decided to boycott the session of the Central Assembly. After a declaration by Mr. Jinnah to the effect that they were walking out of the Central Assembly in order to register their protest against the manner in which the Muslim offer of co-operation in the war effort had been completely ignored by the Government, Moulvi Abdul Rasheed Chowdhuri's resolution recommending immediate steps to give effect, in the case of India, to the joint declaration of the British Premier and the President of the United States of America, commonly known as the Atlantic Charter, was discussed in the Central Assembly in November 1941 and passed without a division, Government members not opposing. Mr. Churchill's attitude with regard to the Atlantic Charter *vis-a-vis* India was also condemned by the All-India Nationalist League at its session in Delhi. The League was of the opinion that the interpretation put on the Atlantic Charter by Mr. Churchill was nothing short of repudiation of the plighted word of His Majesty's Government. The Working Committee of the National Liberal Federation also attacked the exclusion of India from the purview of the Atlantic Charter.

The Non-Party Conference met at Lucknow in December 1941 and again passed a resolution asking the British Government to declare unequivocally that India would have the same freedom and equality of status as Great Britain and the Dominions. About the same time the Viceroy in the course of a speech at Calcutta made an appeal for political unity in India in the face of the common danger.

72. In the Province of Orissa the proclamation under section 93 was revoked and the Maharaja of Parlakimedi formed a Ministry.

On the 3rd of December 1941 the Government of India issued a communique announcing their decision to release Maulana Abul Kalam Azad and Pandit Jawaharlal Nehru and other Satyagraha prisoners.

The Ministry of Mr. Fazlul Huq in Bengal resigned. Mr. Fazlul Huq then accepted the leadership of the Progressive Coalition Party of the Bengal Assembly and again formed a Cabinet which included Dr. Shyama Prasad Mookerjee and the Nawab Bahadur of Dacca. This led to the expulsion by the Muslim League of Mr. Fazlul Huq from membership of the Working Committee and the Council of the Muslim League and Mr. Jinnah as President of the League ordered that Mr Fazlul Huq should not be eligible for membership of the Muslim League organisations.

The internal political situation in the country was getting more and more tense. The issue relating to the division of India was attracting constant public attention and receiving support from Muslims but meeting with increasing opposition on the part of Hindus.

73. In December the most important event happened that Great Britain and the U.S.A. declared war on Japan. A few days later, Pandit Jawaharlal Nehru issued a statement in the course of which he stated that "The entry of Japan into the war has now made it world-wide and it approaches India's border. That is of vast interest to us but it will not make us panicky. Our sympathies must inevitably be with the non-Fascist nations and such help as we can give them, consistently with our principles, would flow to them if we functioned as a free people."

In the same month Sir Mohammad Saadulla's Ministry in Assam went out of office. Later on Pandit Jawaharlal Nehru in a statement to the 'News Chronicle,' London, said: "The first essential is the recognition of Indian independence and the consignment to the dustbin of the infamous August declaration and all other similar declarations of the British Government." Similarly Mr. Jinnah sent a message to the 'News Chronicle,' London, in which he said: "I want the British public and statesmen to understand that the standard of the Muslim League is vitally different from that of the Congress and other Hindu organisations. I want the British Government not to force Muslim India to fill Indian jails to convince them or demonstrate that Pakistan is now our sacred creed, an article of faith and any declaration by the British Government or the Prime Minister which will in any way militate against it, Muslim India will resist with all the power it can command." The Hindu Mahasabha Conference was to be held at Bhagalpur in Bihar, but it was banned. Dr. Shyama Prasad Mookerjee, a Minister in office in Bengal, at the same time went to attend the Conference but was detained and so were several other important members. This led to a considerable feeling among the Hindus in the country and the order of the Bihar Government came in for severe criticism from every side.

74. The outbreak of the war with Japan complicated the internal situation more and more. The Hindu-Muslim question was becoming more and more acute. Differences were also springing up among the Congressmen themselves. Mr. Gandhi expressed a desire to withdraw his active participation from Indian politics. A meeting of the Working Committee of the Congress was held at Bardoli in December 1941, Maulana Abul Kalam Azad presiding. Mahatma Gandhi wrote a letter to the President of the Congress stating that

his view of the Bombay resolution of the Working Committee radically differed from that of 'most members' and requesting to be relieved of the responsibility laid on him by that resolution. This was interpreted by Maulana Abul Kalam Azad as meaning that Mahatma Gandhi did not want to carry on Satyagraha on behalf of the Congress but that he wanted to carry it on against war on the ground of non-violence and only with those whom he found well up to the standard. The London 'Times' remarked: "Whatever objections the Congress may still sustain to co-operation with the Government, or whatever conditions they may seek to attach to a new line of action, they no longer base their policy upon unresisting Pacifism."

75. Following a meeting of the All-India Congress Committee held at Wardha on January 15 and 16, 1942, three circulars were issued by the General Secretary of the Congress to all Provincial and District Congress Committees on January 21, January 27 and February 3, 1942. The constructive programme of the Congress was to be worked out, its message was to be carried to the villages, and Khadi Day, Hindu Muslim Unity Day, Harijan Day, Rural Uplift Day, etc., were to be observed. In short 'To the villages' was to be the slogan of Congressmen. Every member of a Congress executive or of an elective committee, if not every primary member, was to make himself responsible for some one or more items of constructive programme. The Congress policy of non-co-operation with war effort was to be continued. In accordance with that policy Congressmen were to withdraw from such local bodies as had participated in the war effort in the past or "do so now or in the future." A feeling of distrust for, and hostility towards, the British Government pervaded the country already and these impressions were to prepare the people for further sacrifice and suffering. The internal situation was getting worse and worse and the tempo of speeches by leaders of public opinion was rapidly rising. At a meeting in Delhi, Pandit Jawaharlal Nehru declared "India will not accept any rule—Japanese or German—but the rule of the masses of India." Mr. Rajagopalachari declared at a public meeting at Tirupati "The only strategy, the great 'secret weapon' that will outwit Japan is the acknowledgement of India's indefensible right to freedom. It is only then that the battle of the Pacific will take a new turn." Mr. Amery then made a statement that the Government were anxious that India should be afforded the same opportunities as the Dominions of being represented on the War Cabinet and on the Pacific War Council for the purpose of the formulation and direction of the policy for the prosecu-

tion of the war. His Majesty's Government accordingly invited the Government of India to arrange for such representation, if they so desired.

The Non-Party Conference was again held in New Delhi on the 21st of February 1942. It reiterated its demand about the national government and about the immediate declaration that India should no longer be treated as a dependency but given power similar to that enjoyed by the other self-governing units of the British Commonwealth.

76. The first indication of the possibility of a further move towards the meeting of Indian demands was given in the House of Commons by Sir Stafford Cripps, who was at that time Leader of the House, when replying to the two-day war debate. He then said that "the British Government were much concerned as to the whole question of **the unity and strength of India** in the face of dangers threatening that country. The Government fully realised that it is important that England should do the utmost in the circumstances to make a full contribution towards unity. It would not be profitable to debate so important and vital a question in a partial manner but the Government hoped that such a debate would be possible very shortly upon the basis of a Government decision in the matter."

77. In the early part of March 1942 Mr. Shaikh M. Zahiruddin, President, and Mr. Abdul Qaiyum, Vice-President of the All-India Momin Conference sent a cable to Mr. Churchill saying that "All-India conference representing over 45 millions Moslems of the Momin (Ansar) community repudiates Mr. Jinnah's claim to possess the sole right to speak on behalf of Indian Moslems and supports the demand for immediate recognition of India's freedom." Mr. Amery in reply to a question in the House of Commons a few days later admitted the receipt of this telegram and said that "The Conference claims to speak on behalf of Momins, a Moslem Community chiefly composed of weavers and agricultural labourers and numbering from four to five million and not 45 million." He added that "Many Momins belong to the Moslem League."

78. A few days later (on the 6th) the Muslim League Party in the Central Legislature with Mr. Jinnah in the chair resolved to send the following telegram to Mr. Churchill:—

'The Moslem League Party in the Central Legislature views with grave alarm and apprehension reports that His Majesty's Government and the British Parliament may be stampeded into making a Pronouncement or adopting an interim scheme within the framework of the present constitution or the future regard-

ing constitutional changes and impresses upon His Majesty's Government through you that no declaration should be made which will prejudice or militate in any way against the Moslem demand for Pakistan as the only solution of India's future constitutional problem."

About the same time Mr. Savarkar, President of the Hindu Mahasabha, repudiated the statement of Mr. Rajagopalachari to the effect that what the Muslim League wanted was a fair just share in real power and no Indian politician was interested in denying this.

Sir Reginald Coupland has summed up in the following words the state of the country in the early days of Cripps Mission in Chapter XXI, part 2 of his book: "After the fall of Singapore on February 15, it seemed Bengal lay open. When Rangoon fell on March 7, it seemed as if the tide of Japanese conquest, which had flowed so swiftly and irresistibly over Malaya and then Burma—only yesterday a Province of the Indian Empire—would soon be sweeping into Bengal and Madras. All down that long flat eastern coast Indians were faced Englishmen in 1940. Refugees poured out of Calcutta. If there was less immediate alarm in Delhi or Bombay, it seemed nevertheless quite possible that Japanese armies might be able to penetrate as deep and quickly into India as they had into Malaya and Burma......Meantime Tokyo was attacking by radio ....The Japanese Government, no doubt, had bought the services of sundry secret agents, and revolutionaries of the extreme left, especially in Bengal, were still ready to take their orders from Mr. Subhas Bose, even if they came by radio from Berlin. But, as far as was known there was no large or highly organised 'fifth column'. Nevertheless the divided mind persisted. If educated Indians as a whole were not pro-Japanese, the immence of the threat to India did not make them any more pro-British."

79. It was against this background of internal events in India that Mr. Churchill made the following announcement in the House of Commons on March 11, 1942 "Sir Stafford Cripps is proceeding to India on a special misssion. The official purpose of Sir Safford's visit to India is to seek assent to the proposal which the British Government have agreed on to meet the Indian situation. Sir Stafford will take the British Government's constitutional proposals with a view to securing agreement. He will consult with the Viceroy of India and the Commander-in-Chief on the military situation."

On the 22nd of March 1942 Sir Stafford Cripps and his party arrived at Karachi by plane. At a Press Conference held soon after his arrival in New Delhi he said that he had come to India because he

was a great admirer of the country and wanted to play his part as a member of the War Cabinet in reaching final settlement of the political problem. He also said that he and Mr. Churchill were absolutely agreed on the War Cabinet's proposals and hoped that they would appeal to the Indian leaders since they were the unanimous result of the deliberations of a body of people who were known in the past to have had widely differing outlooks on the question. "I am sure," said he, "that, in the circumstances of today, the leaders of the main parties and interests in India would be ready to take quick decisions."

80. The text of the proposals of Sir Stafford Cripps has been given *in extenso* in Pamphlet No. 1 issued by this Committee (page 14). It has been analysed and commented upon in Pamphlet No. 3 between pages 8 and 11, also issued by this Committee. During the stay of Sir Stafford Cripps in Delhi a large number of politicians assembled there. The Working Committee of the Congress was there and so were the leaders of the Muslim League and the Hindu Mahasabha and other individual politicians. A fairly large number of public men of different schools went to see Sir Stafford Cripps in response to his invitation either individually or in groups. Sir Stafford held consultations with Pandit Jawaharlal Nehru, Maulana Abul Kalam Azad, Mr. Gandhi, Mr. Savarkar and other Hindu leaders, representatives of Indian States, Sir Tej Bahadur Sapru, Dr. M. R. Jayakar and members of the Governor-General's Executive Council. At one time for a few days it seemed probable that a settlement would be arrived at, but unfortunately the mission of Sir Stafford Cripps finally failed to achieve its end. The Working Committee of the Congress passed a resolution the full text of which has been printed in Pamphlet No. 1 issued by this Committee (page 20). It recognised that the principle of self-determination for the people of India was accepted though in the uncertain future but regretted that it was circumscribed and certain provisions had been introduced which gravely imperilled the development of a free and united nation and the establishment of a democratic state. They again emphasised their repeatedly declared demand that no other status except that of independence for the whole of India could be agreed to or could meet the essential requirements of the present situation. As regards the right proposed to be given to individual Provinces to stand out of the proposed Indian Union, if they so wished, they observed as follows:—

> "The acceptance beforehand of the novel principle of non-accession for a Province is also a severe blow to the conception

of Indian unity and an apple of discord likely to generate growing troubles in the Provinces, and may well lead to further difficulties in the way of the Indian States merging themselves in the Indian Union."

"The Congress has been wedded to Indian freedom and unity and any break in that unity especially in the modern world when people's minds inevitably think in terms of ever larger federations, would be injurious to all concerned and exceedingly painful to contemplate."

"Nevertheless the Committee cannot think in terms of compelling the people in any territorial unit to remain in an Indian Union against their declared and established will."

"While recognising this principle, the Committee feel that every effort should be made to create conditions which would help the different units in developing a common and co-operative national life."

Even before the Working Committee of the Congress passed their resolution it was abundantly plain that persons in Delhi at the time who were in touch with non-official opinion thought that there were two sections among Congressmen each trying to get ascendency over the other. There is reason to believe that there were some leaders of the Congress who would have been glad if misunderstandings which had arisen in the course of the negotiations could be removed and settlement arrived at. That would undoubtedly have meant a compromise. There were others who were not prepared to accept a compromise. At the same time it was clear that Sir Stafford Cripps was strictly limited by the terms of his authority derived originally and from time to time during his stay in India from Mr. Churchill and the Cabinet. It was also felt that if his stay had been prolonged by a week or so, the result might have been more satisfactory than it turned out to be. It will always remain a matter of speculation as to what the attitude of the Muslim League, the Hindu Mahasabha and the Sikhs would have been if the Working Committee of the Congress had definitely decided to accept the Cripps proposals as they were or subject to certain modifications which did not seem by any means to be out of the question. When, however, the resolution of the Congress Working Committee which practically amounted to a rejection of the Cripps proposals was announced the feeling in some quarters was one of great disappointment that the mission on which so much hope had been built had led to no results.

81. The Working Committee of the Muslim League also rejected those proposals. Their resolution has also been printed at pages 34

to 37 of Pamphlet No. 1 issued by this Committee. "So far as the Muslim League is concerned," said the resolution, "it has finally decided that the only solution of India's constitutional problem is the partition of India into independent zones; and it will, therefore, be unfair to the Mussalmans to compel them to enter such a Constitution-making body, whose main object is the creation of a new Indian Union. With conditions as they are, it will be not only futile, but on the contrary, may exacerbate bitterness and animosity amongst the various elements in the country." They took exception to the composition of the Constitution-making body particularly because it was to take decisions by a bare majority. As regards the right of non-accession the Working Committee presumed that it was a concession in response to the insistent demands by the Mussalmans for the partition of India; "but," so ran the resolution, "the method and procedure laid down are such as to negative the professed object, for in the draft proposals the right of non-accession has been given to the existing provinces which have been formed from time to time for administrative convenience and on no logical basis." The resolution went on to say: "In the draft proposals no procedure has been laid down as to how the verdict of the Provinces is to be obtained in favour of or against accession to the one union: but in the letter dated 2nd of April from the Secretary of Sir Stafford Cripps, addressed to the President of the All-India Muslim League, it is stated that 'a province should reach the decision whether or not to stand out of the Union by a vote in the Legislative Assembly on a resolution to stand in. If the majority for accession to the Union is less than 60 per cent, the minority will have the right to demand a plebiscite of the adult male population.' In this connection it must be emphasised that in the case of the major Provinces of Bengal and the Punjab they (the Mussalmans) were in a minority in the Legislative Assemblies, and in the Assemblies of Sind and North-West Frontier Province, the total number, namely 60 and 50 per cent respectively, was so small and the weightage given to the non-Muslims so heavy that it could be easily manipulated and a decision under such conditions could not be the true criterion of ascertaining the real opinion of the Mussalmans of those Provinces." With regard to the suggested right of plebiscite in the Provinces, the resolution provided as follows:—

> "As regards the suggested plebiscite in the Provinces in which the Mussalmans are in a majority, in the event of the requisite majority not being available in the Legislative Assemblies, the procedure laid down is that reference is to all the

adults and not to the Mussalmans alone, which is to deny them the inherent right of self-determination."

82. The Committee of the All-India Momin Conference adopted a resolution at New Delhi on the 8th of April 1942 declaring that the Cripps proposals fall short of the aspirations of the Muslim masses and are not acceptable unless modified. They also said that they believed in the solidarity, integrity and unity of India.

The Working Committee of the Hindu Mahasabha submitted a memorandum to Sir Stafford Cripps. They pointed out that the basic principle of the Hindu Mahasabha was that India was one and indivisible. As regards the right of non-accession they said as follows:—

> "The right of non-accession of any Province to the Indian Union, cannot be justified on the principle of self-determination, and no such right can be imposed by any outside authority. India has already been one unitary State, and the existing Provinces are constituted as administrative units. The analogy of sovereign states entering into a federation and surrendering portion of their sovereignty for certain common purposes cannot apply to Indian Provinces."

They also criticised the method of election of the Constitution-making body as it was to be on the basis of the Communal Award which was not only anti-national but ran counter to the essential principles of democracy.

The Sikh All-Parties Committee also submitted a memorandum to Sir Stafford Cripps expressing their dissatisfaction with the proposals. In their opinion instead of maintaining and strengthening the integrity of India the proposals contained a specific provision for the separation of Provinces and the constitution of Pakistan. The Sikhs emphasised their own interests and said:—

> "Why should a province that fails to secure 3/5ths majority in its Legislature, in which a religious community enjoys statutory majority be allowed to hold a plebiscite and given the benefit of a bare majority? In fairness this right should have been conceded to the communities who are in a permanent minority in the legislature. Further, why should not the population of any areas opposed to separation be given the right to record its verdict and to form an autonomous unit?"

Memoranda were also presented by the States people's Conference and the Depressed Classes League. The States People's Conference protested against the ignoring of the people of the States in the scheme.

The Depressed Classes League demanded an immediate declaration of India's independence and declared that "nothing short of one single Indian Union for all India could be accepted, as India is an indivisible whole."

Dr. B. R. Ambedkar and Rao Bahadur M. C. Rajah, however, took a different line and wrote to Sir Stafford Cripps saying that his proposals were calculated to do the greatest harm to the Depressed Classes and were sure to place them under an unmitigated system of Hindu rule. They added that they and their community were "determined to resist any such catastrophe befalling our people with all the means at our command."

The Council of the Liberal Federation of India, in a memorandum, criticised the provision giving liberty to any Province not to accede to the Indian Union as fraught with serious difficulties and dangers. They felt that Communal feelings would be further exacerbated in the course of a decision about accession or non-accession, but added that in any case the decision whether a Province should accede to the Union or not was a momentous question and should not be concluded by a bare majority but that some minimum percentage, say, at least 55 per cent, should be prescribed.

Sir Tej Bahadur Sapru and Dr. M. R. Jayakar submitted a joint memorandum. They strongly pressed, among other things, that no decision by a Provincial Legislature against succession to the Union should be valid unless it was supported by not less than 65 per cent of the Indian members of the Lower House present at the meeting at which the question is voted on.

83. From the very beginning there were two questions which were exercising the minds of the Indian leaders who had assembled at Delhi and of the Indian public at large. The first was as to the circumstances in which the right of non-accession could be exercised by a Province. The second was that the provisions in the Declaration as regards the interim Government were vague and nebulous and that the proposals made by Sir Stafford in the course of the negotiations did not give the assurance that the Indian Defence Member in any such Government would be able to function effectively and have adequate powers. With regard to the first, in his letter dated 2nd of April 1942 addressed to Maulana Abul Kalam Azad, Sir Stafford Cripps wrote:—

> "Mr. Jinnah has asked me to give him a clear picture of the method by which I have proposed that a Province should decide whether it will or will not join an Indian Union set up in accordance with the procedure laid down in His Majesty's Govern-

ment draft Declaration. I have told him in reply that the proposition which I have put orally to him and to the other leaders is that a Province should reach its decision by a vote in the Legislative Assembly on a resolution that the Province should join the Indian Union, and that if the majority for accession is less than 60 per cent the minority would have the right to demand plebiscite of the adult male population." On the second question, in his letter dated the 7th of April 1942 to Maulana Abul Kalam Azad after consulting His Majesty's Government Sir Stafford wrote:

"Although, as the Working Committee have fully understood, it is impossible to make any change in the existing constitution during the period of hostilities, His Majesty's Government are anxious to give representative Indians the maximum possible participation in the Government during that period, in accordance with the principle laid down in clause (e) of the draft declaration,........I am, therefore, authorised to propose to you as a way out of the present difficulties that—

(a) The Commander-in-Chief should retain a seat in the Viceroy's Executive Council as "War Member" and should retain his full control over all the war activities of the armed forces in India subject to the control of His Majesty's Government and the War Cabinet upon which body a representative Indian should sit with equal powers in all matters relating to the Defence of India. Membership of the Pacific Council would likewise be offered to a representative Indian.

(b) An Indian representative member would be added to the Viceroy's Executive, who would take over those sections of the Department of Defence which can organisationally be separated immediately from the Commander-in-Chief's War Department and which are specified under head (i) of the annexure. In addition this member would take over the Defence co-ordination Department which is at present directly under the Viceroy, and certain other important functions of the Government of India which are directly related to Defence and which do not fall under any of the other existing departments and which are specified under head (ii) of the annexure."

The annexure was as follows:—

"(i) Matters now dealt with by the Defence Department which would be transferred to a Defence Co-ordination Department:—

(a) Public relations.
(b) Demobilization and post-war reconstruction.
(c) Petroleum Officer whose functions are to calculate the requirements of, and make provision for, all the petroleum products required for the Army, Navy and Air Force, and for the Civil Departments including Storage and distribution.
(d) Indian representation on the Eastern Group Supply Council.
(e) Amenities for, and welfare of troops and their dependants, including Indian soldiers abroad.
(f) All canteen organisations.
(g) Certain non-technical educational institutions, e.g., Lawrence School, K.G.R.I.M. Schools and the Prince of Wales' Royal Indian Military College.
(h) Stationery, Printing and forms for the Army.
(i) Reception, accommodation and social arrangements for foreign missions, representatives and officers.

(ii) In addition the Defence Co-ordination Department would take over many major questions bearing directly on defence, but difficult to locate in any particular existing departments.

Examples are—

'Denial Policy.'

Policy of evacuation from threatened areas.

Signals co-ordination.

Economic Welfare."

The Working Committee rejected these proposals, and proposed the following formula:

"(a) The Defence Department shall be placed in the charge of a representative Indian member, but certain functions relating to the conduct of the War will be exercised, for the duration of the War by the Commander-in-Chief, who will be in control of the war activities of the armed forces in India, and who will be an extraordinary member of the National Cabinet for the purpose.

(b) A War department will be constituted under the Commander-in-Chief. This Department will take over such functions as are to be exercised by the Commander-in-Chief. A list of such functions has been prepared and is attached.

(c) The Defence Member shall be in charge of all other matters relating to Defence, including those now dealt with by the Defence Co-ordination Department."

In submitting this new formula to Sir Stafford Cripps, the Working Committee pointed out, that the revised proposals made by Sir Stafford Cripps on behalf of the British War Cabinet were entirely unsatisfactory as both the approach and the allocations of subjects were, in their opinion, wrong and there was no real transfer of responsibility for Defence to the representative Indians in the National Government. Such transfer was, in their opinion, essential for the successful defence of the country, for on it depended the full mobilization of the war-potential of the country. The Congress President said: "The approach made in the draft you (Sir Stafford Cripps) gave me (Maulana Abul Kalam Azad) this morning seems to us a more healthy one. With some alterations that we suggest, it might be made the basis of further discussions. But, it must be remembered. that a very great deal depends on the allocation of subjects between the Defence Department and the War Department, and until this is done, it is not possible to give a final opinion." Then at the end of the letter the President of the Congress stated as follows:—

> "In the draft Declaration proposed to be made by the British Government there is much with which we do not agree. The Preamble commits us to Dominion Status, though there is a possibility of our voting ourselves out later on. Clauses C and D relate *inter alia*, to the right of a Province not to join the Union and to the nomination by the Rulers of States' representatives to the constitution-making body. We think these provisions are bad and likely to have dangerous consequences......All these provisions are for the future and they need not come in the way of a present arrangement. As a controversial matter, this might be left out of any proposed Declaration at this stage. It will be open to any group or party to adhere to its own opinions in regard to them and yet cooperate in a settelment for present action. We hope that it may be possible for us to arrive at a satisfactory settlement about them at a future date ...... We presume that the independent status of India will be recognised by the United Nations. Whenever this is done, it will greatly help our common cause and strengthen our bonds with each other."

Sir Stafford Cripps' amendment of the Working Committee's formula was in these terms:

"(a) The Defence Department shall be placed in the charge of a representative Indian member, but certain functions relating to the conduct of the war will be exercised, until the new

constitution comes into operation, by the Commander-in-Chief, who will be in control of the war activities of the armed forces in India and who will be a member of the Executive Council for that purpose.

(b) A War Department will be constituted under the Commander-in-Chief. This Department will take over such function as are to be exercised by the Commander-in-Chief. A list of such functions has been prepared and is attached.

(c) The Defence Member shall be in charge of the other matters relating to defence in the Defence Department and those now dealt with by the Defence Co-ordination Department in addition to other important matters closely related to defence.

(d) In the event of any new functions falling to be discharged in relation to Defence or any dispute arising as to the allocation of any old functions it shall be decided by His Majesty's Government."

This was followed by an interview which took place between Sir Stafford Cripps and the President of the Congress on the 9th of April. The result of this interview was placed on the morning of the 10th before the Working Committee who came to the conclusion that they could not accept the British Government's proposals as they stood.

84. The final decision of the Working Committee was communicated to Sir Stafford by Maulana Abul Kalam Azad in his letter dated 10th April 1942. The following are extracts of some of the important portions of the letter:—

......"In our talks you gave us to understand that you envisaged a National Government which would deal with all matters except Defence."

"On general principles a National Government would control Defence through a Defence Minister, and the Commander-in-Chief would control the armed forces and would have full latitude in the carrying out of the operations connected with the war. An Indian National Government should have normally functioned in this way. We made it clear that the Commander-in-Chief in India would have control of the armed forces and the conduct of operations and other matters connected therewith. With a view to arriving at a settlement, we were prepared to accept certain limitations on the normal powers of the Defence Minister. We had no desire to upset in the middle of the war the present military organisation or arrangements. We accepted also

that the higher strategy of the war should be controlled by the War Cabinet in London which would have an Indian member. The immediate object before us was to make the defence of India more effective to strengthen it, to broad base it on the popular will, and to reduce all red tape, delay and inefficiency from it. There was no question of our interfering with the technical and operational sides. One thing, of course, was of paramount importance to us; India's safety and defence. Subject to this primary consideration, there was no reason why there should be any difficulty in finding a way out of the present impasse in accordance with the unanimous desire of the Indian people, for in this matter there are no differences amongst us."

"The formula for defence that you sent us was considered by us together with its annexure which gave a list of subjects or departments which were to be transferred to the Defence Department. This list was a revealing one as it proved that the Defence Minister would deal with relatively unimportant matters. We were unable to accept this and we informed you accordingly. Subsequently a new formula for defence was suggested to us, but without any list of subjects. This formula seemed to us to be based on a more healthy approach and we suggested certain .changes pointing out that our ultimate decision would necessarily depend on the allocation of subjects. A revised formula was then sent back to us together with an indication of the functions of the War Department. This was so widely and comprehensively framed that it was difficult for us to know what the actual allocation of subjects and departments, as between the Defence Department and the War Department, would be. A request was made on our behalf that illustrative lists of these subjects might be supplied to enable us to consider the matter. No such lists were supplied to us. ....The new Government could neither be called except vaguely and inaccurately, nor could it function, as a National Government. It would just be the Viceroy and his Executive Council with the Viceroy having all his old powers. We did not ask for any legal changes but we did ask for definite assurance and conventions which would indicate that the new Government would function as a free Government the members of which act as members of a Cabinet in a constitutional Government."

"In regard to the conduct of war and connected activities the Commander-in-Chief would have freedom and he would act as War Minister."

"The picture of the Government, which was so like the old in all essential features is such that we cannot fit into it. Normally we could have had little difficulty in disposing of this matter for it is so far removed from all that we have striven for, but in the circumstances of today we were prepared to give full consideration to every proposal which might lead to an effective organisation of the defence of India. The peril that faces India affects us more than it can possibly affect any foreigner, and we are anxious and eager to do our utmost to face it and overcome it. But we cannot undertake responsibilities when we are not given the freedom and power to shoulder them effectively and when an old environment continues, which hampers the national effort."

"While we cannot accept the proposals you have made, we want to inform you that we are yet prepared to assume responsibility provided a truly National Government is formed."

The reply of Sir Stafford Cripps dated 11th April 1942 is so important that it deserves to be reproduced *in extenso*:

"My dear Maulana Sahib,

I was extremely sorry to receive from you your letter of April 10 expressing the rejection by the Congress Working Committee of His Majesty's Government's Draft Declaration.

I will not deal with those points which are covered by the original resolution of your Committee which you sent me as they were clearly not the reason for your decision.

Nor need I go into the question of the division of duties between the Defence Minister and the Commander-in-Chief as War Member with which you deal at length. This division allotted to the Defence Minister all functions outside those actually connected with the General Headquarters and Air Headquarters which are under the Commander-in-Chief as head of the fighting forces in India.

In addition to these functions in the narrow field of 'Defence' it was suggested that all other portfolios relating to that subject such as:

Home Department—Internal Order, Police, Refugees, etc.

Finance Department—All war finance in India.

Communications Department—Railways, Roads, Transport, etc.

Supply Department—Supplies for all forces and munitions.

Information and Broadcasting Department—Propaganda, Publicity, etc.

Civil Defence Department—A.R.P. and all forms of civilian defence.

Legislative Department—Regulations and orders.
Labour Department—Man power.
Defence Department—Administration of Indian personnel, etc.
should be put in the hands of representative Indians as members of the Executive Council.

Nothing further could have been done by way of giving responsibility for defence services to representative Indian members without jeopardizing the immediate defence of India under the Commander-in-Chief. This defence is, as you know, a paramount duty and responsibility of His Majesty's Government, while unity of command is essential in the interests of the allied help to India.

The real substance of your refusal to take part in National Government is that the form of Government suggested is not such as would enable you to rally the Indian people as you desire.

You make two suggestions. First that the constitution might now be changed. In this respect I would point out that you made this suggestion for the first time last night, nearly three weeks after you had received the proposals, and I would further remark that every other representative with whom I have discussed this view has accepted the practical impossibility of any such legislative change in the middle of a war and at such a moment as the present.

Second you suggest 'a truly National Government' be formed, which must be a 'Cabinet Government' with full power.

Without constitutional changes of a most complicated character and on a very large scale this would not be possible as you realise.

Were such a system to be introduced by convention under the existing circumstances, the nominated Cabinet (nominated presumably by the major political organisations) would be responsible to no one but itself, could not be removed and would in fact constitute an absolute dictatorship of the majority.

This suggestion would be rejected by all the minorities in Inida, since it would subject all of them to a permanent and autocratic majority in the Cabinet. Nor would it be consistent with the pledges already given by His Majesty's Government to protect the rights of those minorities.

In a country such as India where communal divisions are still so deep an irresponsible majority Government of this kind is not possible.

Apart from this, however, until such time as the Indian peoples frame their new constitution, His Majesty's Government must continue to carry out its duties to those large sections of the Indian people to whom it has given its pledges.

The proposals of His Majesty's Government went as far as possible—short of a complete change in the constitution which is generally acknowledged as impracticable in the circumstances of today.

While, therefore, both I and His Majesty's Government recognise the keen desire of your Working Committee to carry on the war against the enemy by every means in their power, they regret that your Working Committee has not seen its way to join in the war effort upon the conditions sincerely offered, the only conditions which could have brought together all the different communities and sections and the Indian people.

I propose to publish this answer,

Yours sincerely,
(Sd.) S. Cripps."

The final letter in the series is that of Maulana Abul Kalam Azad dated the 11th of April 1942 and may also be quoted *in extenso*:—

"Dear Sir Stafford,

I have just received your letter of April 10, and I must confess that my colleagues and I were considerably surprised to read it. I am sending you the reply immediately and can only deal briefly here with some of the points you have raised.

The points covered by our original resolution are important and represent my Committee's well-considered views on the British proposals as a whole. But we pointed out to you that so far as the proposals relate to the future they might be set aside, as we were anxious to assume responsibility for India's Government and Defence in this hour of danger. This responsibility could only be undertaken, however, if it was real responsibility and power.

As regards the divisions of functions between the Defence Minister and the War Minister you did not give illustrative lists as requested by us and referred us to the previous list of the Defence Minister's functions, which as you know, we had been wholly unable to accept. In your letter under reply you mention certain subjects, directly or indirectly related to the War, which will be administered by other departments. So far as the Defence Minister is concerned, it is clear that his functions will be limited by the first list that you sent.

No one has suggested any restrictions on the normal powers of the Commander-in-Chief. Indeed we went beyond this and were prepared to agree to further powers being given to him as War Minister. But it is clear that the British Government's conception

and ours in regard to defence differ greatly. For us it means giving it a national character and calling upon every man and woman in India to participate in it. It means trusting our own people and seeking their full co-operation in this great effort. The British Government's view seems to be based on an utter lack of confidence in the Indian people and in withholding real power from them. You refer to the paramount duty and repsonsibility of His Majesty's Government in regard to defence. That duty and responsibility cannot be discharged effectively unless the Indian people are made to have and feel their responsibility, and the recent past stands witness to this. The Government of India do not seem to realise that the war can only be fought on a popular basis.

Your statement that we have for the first time after three weeks suggested a change in the constitution is hardly correct. In the course of our talks, reference was made to it, but it is true that we did not lay stress on it as we did not want to introduce new issues. But when you stated explicitly in your letter that we had agreed that no constitutional changes could be made during the war, we had to deny this and correct your impression.

It is the last part of your letter that has especially surprised and pained us. It seems that there has been a progressive deterioration in the British Government's attitude as our negotiations proceeded. What we were told in our very first talk with you is now denied or explained away. You told me then that there would be a National Government which would function as a Cabinet and that the position of the Viceroy would be analogous to that of the King in England *vis-a-vis* his Cabinet. In regard to the India Office you told me that you were surprised that no one had so far mentioned this important matter, and that the practical course was to have this attached or incorporated with the Dominions' Office.

The whole of this picture which you sketched before us has now been completely shattered by what you told us during our last interview.

You have put forward an argument in your letter which at no time during our talks was mentioned by you. You refer to the 'absolute dictatorship of the majority.' It is astonishing that such a statement should be made in this connection and at this stage. This difficulty is inherent in any scheme of a mixed Cabinet formed to meet an emergency but there are many ways in which it can be provided for. Had you raised this question we would have discussed this and found a satisfactory solution. The whole approach to this question has been that a mixed Cabinet should be formed and should

co-operate together. We accepted this. We are not interested in the Congress as such gaining power, but we are interested in the Indian people as a whole having freedom and power. How the Cabinet should be formed and should function was a question which might have been considered after the main question was decided; that is, the extent of power which the British Governmnt would give up to the Indian people. Because of this we never discussed it with you or even referred to. Nevertheless you have raised this matter for the first time, in what is presumably your last letter to us, and tried most unjustifiably to sidetrack the real issue between us.

You will remember that in my very first talk with you I pointed out that the communal or like questions did not arise at this stage. As soon as the British Government made up its mind to transfer real power and responsibility, the other questions could be tackled successfully by those concerned. You gave me the impression that you agreed with this approach.

We are convinced that, if the British Government did not pursue a policy of encouraging disruption, all of us, to whatever party or group we belonged, would be able to come together and find a common line of action. But unhappily, even in this grave hour of peril, the British Government is unable to give up its wrecking policy. We are driven to the conclusion that it attaches more importance to holding on to its rule in India, as long as it can and promoting discord and disruption here with that end in view, than to an effective defence of India against the aggression and invasion that overhang us. To us, and to all Indians, the dominant consideration is the defence and safety of India, and it is by that test that we judge.

You mention that you propose to publish your letter to me. I presume that you have no objection now to our publishing our original resolution, your letters to us and our letters to you.

Yours sincerely,
(Sd.) Abul Kalam Azad."

85. Thus broke down the negotiations which were carried on by Sir Stafford Cripps in March-April 1942. The breakdown was followed by voluminous statements to the press made by the President of the Congress, Pandit Jawaharlal Nehru and Sir Stafford Cripps. Maulana Azad gave a long interview in the course of which he made it clear that "the Mahatma's views as regards the participation in any war are well known and it would be entirely untrue to suggest that the Working Committee's decisions have in any way

been influenced by those views. In fact, Mahatma Gandhi made it clear to the Working Committee that they were perfectly free to come to their own decisions on the merits of the proposals. He did not really want to participate even in the earlier sittings of the Working Committee, but he was persuaded by me to stay on from day to day as long as he could afford to do so. Eventually my persuasion proved powerless to make him stay longer." We are referring to these statements because we are aware that in certain quarters the impression at that time was and still is that the rejection of the Cripps proposals was to a large extent influenced by Mahatma Gandhi. We think that the more plausible criticism will be not that Mahatma Gandhi advised the Congress Working Committee to reject the proposals but that he did not advise them to accept the proposals.

It is unnecessary to go into the other details of the Maulana's press statements and interviews or of those of Pandit Jawaharlal Nehru or Sir Stafford Cripps.

There was, however, one regrettable detail Sir Stafford Cripps said at a Press Conference at New Delhi that His Majesty's Government held that this offer to India had been withdrawn. As a matter of fact since this unfortunate statement was made by Sir Stafford Cripps—perhaps in a hurry—His Majesty's Government, speaking through Mr. Amery on various occasions and through others have repeated on every important occasion that the offer stands.

86. The visit of Sir Stafford Cripps and the failure of his mission in April 1942 marked a distinct stage in the history of the Indian political struggle. The essential defect of the Cripps proposal was that while they contained a not unsatisfactory picture of the future they were disappointing so far as the immediate, interim arrangements were concerned. We do not think that it was impossible, with the exercise of patience, to meet the Indian point of view that the Executive Council should be a National Government in the sense that in regard to matters which were actually sought to be placed in the hands of Indian members of the Council there should not ordinarily be any interference on the part of the Viceroy even though it might be that it was impossible to change the constitution in the midst of the war. Nor do we think that the differences which arose on the question of defence were such as were incapable of adjustment. It is a matter of deep regret to us that the Governor-General was himself rigidly aloof from the efforts which Sir Stafford was making and that there was no attempt made for bringing the leaders engaged in the negotiations round a table for a free, full and frank discussion, between them on the one side and Sir Stafford and the Governor-General on

the other, on the issues that stood in the way of a final agreement. It may be that Sir Stafford Cripps kept himself in close touch with the Governor-General, but it does not appear that the personal good offices of the Governor-General were placed at the disposal either of Sir Stafford or any section of Indian leaders. So far as the Indian leaders were concerned we deeply regret that they on their part made no effort to get together at that time and to arrive at a mutual settlement for the interim period. The whole course of events which followed the departure of Sir Stafford Cripps might have been, and probably would have been different if an attempt had been made by the Indian leaders of different parties to get together and to discuss things across the table. What is more regrettable is that, while the situation was obviously deteriorating, the Government of India at that time was more interested in watching the progress of events from the point of view of law and order than from the point of view of taking their proper share or part in bringing about mutual understanding. The fact that the Government of India let the situation drift has in our opinion produced disastrous results and an embitterment in the public mind which has made the task of reconciliation between different groups of Indians and between Indians and the British Government more difficult than it ever was.

87. We shall now deal with the subsequent events some of which have been of a more controversial character than those which we have reviewed at length.

Having reached London Sir Stafford Cripps addressed another Press Conference and explained in his own way why he had been unsuccessful in his mission. But he asserted that he did not regard the problem ol India as insoluble during the war. He added "Upon the fundamental and vital points of Indian self-government and self-determination of their future constitution, there was no single case of disagreement. Disagreement came upon the way in which self-determination should be exercised." Mr. Amery, in winding up a debate on India in the House of Commons made the significant observations in regard to which he was wholly sincere at the time that "the main object of the Draft Declaration was to set India's suspicoins as to our intentions at rest. **Our ideal remains a United All-India.**"

88. The All-India Congress Committee met at Allahabad on the 29th of April 1942 and passed a resolution on War in the course of which it stated:

"The present crisis, as well as the experience of negotiations with Sir Stafford Cripps, has made it impossible for the Congress to consider any schemes or proposals which retain even in a partial manner British control and authority in India. Not only the interests of India but also of Britain's safety and world peace demand that Britain must abandon her hold on India. It is on the basis of independence alone that India can deal with Britain or other nations."

A policy of non-violent non-co-operation in resisting the invader was strongly recommended. Mr. Rajagopalachari's resolution acknowledging the Muslim League's claim to self-determination was rejected and Mr. Jagat Narain Lal's counter-resolution opposing any approval of the disintegration of India was passed.

89. The situation had become full of anxiety for the future. The breach between the Government and the Congress was as wide as it could be. It was also obvious that differences had arisen between some leading members of the Congress like Mr. Rajagopalachari and the general body of the Congress.

Mr. Rajagopalachari conducted a lecturing campaign in Madras pleading for the forging of a national front, establishing a National Government and mobilising the millions for patriotic defence. Pandit Jawaharlal Nehru, however, addressing a meeting at Lahore said that the step taken by Mr. Rajagopalachari was detrimental to the interests of the country. "It appears to me" he said "that he is breaking to pieces the weapon which the Congress have fashioned after 22 years of innumerable sacrifices." Mr. Rajagopalachari replied that Pandit Nehru "says that Congress has been fashioned into a weapon of great potency as the result of 22 years of innumerable sacrifices. This is quite true, but is it not all the more a tragedy that in this supreme crisis, Congress must watch things as a spectator?" Writing on the Cripps Mission Mahatma Gandhi made the following important statement:—

"Sir Stafford could have asked either the Congress or the League to form the Cabinet. If he had done so probably the party they entrusted with responsibility would have succeeded in having the co-operation of the other party. In any event, the Government would then have dealt with the real representatives of either party rather than having their own nominees."

Mr. Rajagopalachari suggested in the course of a speech that Pandit Jawaharlal Nehru and Mr. Jinnah should come together. Pandit Jawaharlal Nehru replied two days later that he would willingly meet Mr. Jinnah if that would serve the cause the Congress had at

heart—the achievement of India's independence. Sir Stafford replying to Mr. Gandhi's demand observed "We are not going to walk out of India right in the middle of the war though we have no wish to remain there for any imperialistic reasons." Pandit Jawaharlal Nehru said to the press at Bombay: "I can quite believe that the British Government has no intention at present of walking out of India in the middle of war or after this. But much has happened in this war which the British Government did not intend and did not like and much is going to happen in India and elsewhere in spite of the wishes of the British Government." Mahatma Gandhi again issued a statement criticising Sir Stafford Cripps' statement just referred to and in the course of which he said that he was convinced that the independence of India which the withdrawal of the British power involved would ensure China's freedom and put the Allied cause on an unassailable basis. Explaining his position in a newspaper he observed as follows:—

> "So far as my opinion is concerned, British authority should go completely, irrespective of the wishes or demand of the various parties. But I would recognise their military necessity. They may need to remain in India for preventing Japanese occupation. That prevention is common cause between them and us. It may be necessary for the sake also of China. Therefore, I would tolerate their presence in India, not in any sense as rulers, but as allies of free India."

He again wrote: "I have no desire whatsoever to woo any power to help India in her endeavour to free herself from the foreign yoke. I have no desire to exchange the British for any other rule."

It was thus clear that the situation was heading towards a climax which was reached at the Wardha meeting of the Congress Working Committee in July and shortly after at the Bombay meeting of the All-India Congress Committee in August.

Early in July 1942 the Viceroy's Executive Council was further expanded and Sir C. P. Ramaswami Iyer, Dr. B. R. Ambedkar, Sir Edward Benthall, Sir Jogendra Singh, Sir J. P. Srivastava and Sir Mohammad Usman were appointed as members of the Executive Council. Mr. Jinnah gave an interview to the press in Bombay in the course of which he said that he felt that the only way Britain could do justice was by handing over Muslim homelands to the Muslims and Hindu homelands to the Hindus. This he said was a practicable proposition and would cause the least amount of trouble and friction, and the Pakistan scheme was just and reasonable both for Hindus

and Muslims. He characterised the Congress proposal for a united democratic government for the whole of India as one which would mean to all intents and purposes a Hindu Raj and Hindu domination over a hundred million Muslims. It need scarcely be pointed out that the demand for Pakistan was being attacked vigorously by the Hindus and the Sikhs.

The Congress Working Committee met at Sevagram (Wardha) on 14th July 1942. Pandit Jawaharlal Nehru said to the British and American correspondents gathered there that the Congress position had very much changed since Sir Stafford Cripps' departure. The Congress was not prepared to accept what it had been willing to accept then. The Congress Committee at Wardha then issued a long resolution giving an account of the stand taken by the Congress, urging the withdrawal of the British power from India and at the same time saying that the Congress did not want to take any hasty step and would not like to embarrass the United Nations. If the appeal of the Congress failed the Congress would be compelled to utilise all its non-violent strength for the vindication of the political rights and liberty of India under the leadership of Mahatma Gandhi. The resolution ended with the following words:

> "As the issues raised are of the most vital and far-reaching importance to the people of India as well as to the people of the United Nations, the Working Committee refers them to the A.I.C.C. for final decision. For this purpose, the A.I.C.C. will meet on August 7, 1942."

Mahatma Gandhi himself explained the implications of the resolution to the press. It was abudnantly plain that the situation was developing very fast and a collision between the Congress and the Government seemed to be inevitable unless counsels of moderation or a desire for reconciliation could come into play without loss of time and the further deterioration of the situation thus prevented. The 'Quit India' movement was getting a great impetus. The 'Daily Herald' of London at that stage addressed an appeal to the Congress leaders to the following effect:—

> "If you persist in demands which are at this moment impossible to grant, you will cripple your cause and humble the influence of us who are your proud and faithful advocates. You will do worse, you will convey to the world the impression that India's leaders are incapable of distinguishing between the ideal of the United Nations and the petty standards of nationalism; that you rate political strategy higher than the prospect of liberty,

equality and fraternity with the progressive peoples of the earth." Mahatma Gandhi in an interview at Wardha declared "No guarantee to be given by anybody is contemplated by the Congress demand, because the present recognition of India's independence is the need of the hour not because of distrust about the future, but because India as an integral power wants to play, if it is at all possible, a decisive part on the side of the Allies." Sardar Vallabhbhai Patel, addressing a meeting of students at Ahmedabad, declared: "Mahatma Gandhi's last struggle will be short and swift and will be finished within a week."

90. While this was happening in India Mr. Amery gave a warning in the House of Commons that the Government of India would not flinch from taking every possible step to meet any situation that might arise out of Congress action. The demand of the Congress for British withdrawal would, if conceded, completely disrupt the governmental machinery in one of the most vital theatres of the war at a time when every energy was needed for the struggle against the common enemy. It was the earnest hope of the British Govrnment that the people of India would not countenance a movement fraught with disastrous consequences for the allied cause but on the contrary, throw their all into the struggle against the Axis. "The British Government," said Mr. Amery in conclusion "was unable to initiate further discussions on India. Nevertheless, it stood firmly by the broad intentions of the Cripps offer irrespective of the immediate conduct of the Congress party."

91. On the 21st of July 1943, Mr. Jinnah, in a statement to the foreign press said:—

> "The latest decision of the Congress Working Committee on July 14, 1942, resolving to launch a mass movement if the British do not withdraw from India is the culminating point in the policy and programme of Mr. Gandhi and his Hindu Congress of blackmailing the British and coercing them to concede a system of government and transfer power to that government which would establish a Hindu Raj immediately under the aegis of the British bayonet, thereby throwing the Muslims and other minorities and interests at the mercy of the Congress Raj."

Mr. Rajagopalachari in a statement from Madras appealed to Mr. Jinnah to find a solution for the political impasse. Mr. Savarkar. President of the Hindu Mahasabha at a meeting at Poona observed:

> "If the Congress made an unequivocal declaration upholding the demands of the Hindu Mahasabha, namely, the indivisibility

and integrity of India as a nation, representation of the various communities in the Legislatures in proportion to the population, and allocation in respect of the services on grounds of merit alone, the Hindu Mahasabha would support the Congress in any movement that might be launched for the attainment of the freedom of the country."

Sir Tej Bahadur Sapru and Dr. M. R. Jayakar issued appeals calling on leaders of all parties, such as, the Congress, the Muslim League and the Hindu Mahasabha, to move in the matter and call a joint All-Parties Conference and suggesting that, if such a Conference was impossible, the Viceroy's Executive Councillors should call such a conference.

92. A meeting of the All-India Congress Committee was held on 8th of August 1942 and it adopted the resolution—which had been drafted by the Working Committee and passed by it on 5th July—by a large majority, only 13 members voting against it. The resolution is analysed in our Pamphlet No. 3 at pages 14 to 19. Apparently, in anticipation of the A.I.C.C.'s decision, the Governor-General in Council had decided on the action to be taken immediately the Resolution was approved by the A.I.C.C. and had even a Government communique ready for issue in justification of their policy. They issued this communique at once and in the early hours of August 9th.

Mahatma Gandhi, Maulana Abul Kalam Azad, Sardar Vallabhbhai Patel, Pandit Jawaharlal Nehru, Mrs. Sarojini Naidu and other members of the Congress Working Committee, the President and the Secretary of the Provincial Congress Committee and 20 of the Congressmen, who had assembled in Bombay were arrested and taken by a special train to Poona. Dr. Rajendra Prasad was arrested at Patna. Mr. Jinnah in a press statement declared "I deeply regret that the Congress has finally declared war and has launched a most dangerous movement in spite of numerous warnings and advice from various individuals, parties and organisations in this country."

The subsequent history of events is too fresh to have passed out of the memory of the public and we refrain from referring to it here.

CHAPTER III

HINDU-MUSLIM RELATIONS

93. A number of British Statesmen and publicists have, in recent years, made facile generalisations about the irreconcilable nature of Hindu-Muslim antagonisms and have laid undue emphasis on the barriers of race, culture, law and social custom, which, they allege, keep these two great communities apart. The extracts, which we give below, show how persistent this view has been.

As far back as 1892, when introducing in the House of Commons a Bill relating to the Government of India, Mr. (afterwards Lord) Curzon described the Indian people as :

> "Sundered into irreconcilable camps by differences of caste, of religion, of custom, which held men fast-bound during their life-time, and the rigour of which is not abated even beyond the grave."

94. Nearly forty years later, (1930) the Indian Statutory Commission expressed itself to similar effect:

> "It would be an utter misapprehension to suppose that Hindu-Muslim antagonism is analogous to the separation between religious denominations in contemporary Europe. Differences of race, a different system of law and the absence of inter-marriage constitute a far more effective barrier. It is a basic opposition, manifesting itself at every turn in social custom and economic competition, as well as in mutually religious antipathy.

95. According to the Joint Committee on Indian Constitutional Reform, (1934) "the difference between the two (Hindu and Muslim) is not only one of religion in the stricter sense, but also of law and of culture. They may be said indeed to represent two distinct and separate civilizations."

96. Sir Reginald Coupland, in his 'Constitutional Problem of India,' published only last year, observes that :

> " the main distinction between the Hindu and the Muslim is not physical but cultural. It is the outcome of two sharply contrast-

ed religions and of the social systems, the ways of life and thought they have inspired."

97. In the following paragraphs we propose to examine the historic correctness of this view, in so far as it bears upon the question of the feasibility of the two communities living together in political unity with muual toleration and respect for each other's religion and culture.

98. For over 1000 years, Muslims and Hindus in India have lived together. The first contact between them was a peaceful one. Arabs had intimate relations with India from very ancient times. They began with commerce and trade and, as these grew, trade routes by land and sea came to be estabilshed. In course of time settlements of Muslim traders flourished in the South. These drew more Muslims to India and they brought with them their distinct pattern of culture. They had, in their native home, developed great literatures in Arabic and Persian, and ideas and movements continued to flow to India from Arabia, Iraq, Iran and other places. (Beni Prasad: 'Hindu-Muslim Questions,' p. 7). The Muslims were welcomed in India by Hindu potentates, in keeping with the prevailing policy of religious toleration. Mosques were allowed to be built and religious propaganda permitted. Eclecticism, like toleration, had been a feature of the Hindu faith even in those times and Muslims were thus able, in course of time, to establish centres in the South, where, besides exchange of goods and commodities, an exchange of ideas also took place. The settlers did not confine their social life and intercourse to their own community. They spread amongst the people and, owing thereto, a number of communities of mixed descent came into existence, who helped in the process of approximation.

99. It was, however, difficult for Hinduism to assimilate these new settlers completely as it had in the past absorbed successive immigrants like the Scythians, Sakas and Huns. But, though a general fusion was impossible, the new arrivals amongst the Muslims in their turn freely mixed with the people around them and gradually spread themselves over the country. They came to acquire considerable influence in politics and society. Instances were not unknown of Muslim Ministers and Advisers being employed by Hindu Kings even in these early days. An identity of interest was often established between the employer and the employed. When eventually Muslim waves of conquest invaded India, Indian Muslims fought side by side with Hindu Kings in resisting the Muslim invaders, religious affinity giving place to other

loyalties born of contact, understanding and common political allegiance.

100. Later, came a horde of Muslim invaders who looted the country. But, even with reference to these plundering expeditions, it can be said with truth that, after the first lust of conquest had spent itself, human forces began to operate, which interknit the two communities. The Muslims, unlike other invaders, made India their home and were not merely birds of passage bent upon making the best of their temporary rule. Instances were not rare of Hindu Chieftains and soldiers fighting under Muslim Rulers against Hindus and Muslims alike. Similarly, Muslim Captains and soldiers fought by the side of Hindu Rajas. Religious toleration, the outstanding feature of Hinduism through the ages, helped the growth of these affinities and neither poiltical feuds nor armed skirmishes ever came in the way of its maintenance.

101. Making India their home, the Indian Muslims took naturally to the Indian languages. They thus became a part of the people surrounding them. There was also considerable racial penetration. Trade and industry produced new relationships. An equally potent factor in this process was the occupational division of society into professional and other classes to which Hindus and Muslims alike belonged—peasants, landlords, traders, artisans, labourers, soldiers, government servants etc. Many Hindu sub-castes, whose main occupation was government service, formed a political link between the Muslim Rulers and their Hindu subjects. Within each class, Hindus and Muslims were often indistinguishable from each other, as they are now, in dress, housing, etiquette or manners, whether in villages or in towns. They joined in each other's festivals. The position of women, the age of marriage and even some wedding and other rituals were uniform within a class and common to its Hindu and Muslim members. The class was held together by many considerations and interests which cut across religious cleavage. The ethical standards set up by Hindus and Muslims were essentially similar.

102. Subsequently, with the advent of the Mughals, this process became more marked. The achievements of Emperors like Sher Shah and Akbar in enlightened toleration are too well known to be repeated here. The imperial court extended its patronage to Hindu as well as Muslim scholars and became their meeting ground. Hindus studied Arabic and Persian and some of their Persian writings have endured to the present day. As early as the 11th century, a great Muslim scholar, Alberuni, had set the example by mastering

the intricacies of Sanskrit and his account and appreciation of Hindu achievements in science and philosophy are of permanent value. In the 16th and 17th centuries, Muslim scholars translated important Sanskrit works into Persian. Two illustrious promoters of such a rapprochement are Amir Khusrau and Prince Dara Shikoh. Khusrau was the most famous poet of his time, as also the most brilliant man of letters at the court of the Delhi Emperor. A prolific writer, he enjoys popularity even to the present day. He could write and speak Hindi well. His contribution to Indian music will be noticed below. Prince Dara Shikoh was an accomplished scholar and a great admirer of Hindu philosophy and Sanskrit learning. Under his auspices, a Persian translation of the Upnishads was made, as also of the Bhagvat Gita and Yoga Vasistha. He wrote a number of learned works and collected around himself a notable band of scholars, with the intention of building a bridge between Hindu and Muslim cultures. Such examples can be multiplied almost indefinitely. In fact, the greater part of the literary activity of India between the 14th and 19th centuries represents Hindu-Muslim collaboration in providing a distinctly Indian literature, which constituted one of the most significant developments indicating the interaction of reciprocal influences.

103. The Mughal Empire, in its best aspects, contained a promise of nationalism. It was a unifying force. It imparted great momentum to the forces of commerce and industry, improved transport and communication by land, river and sea ; it promoted cultural rapprochement and common ideologies; it was responsible for common administrative practices and firmly established the tradition of an all-India supremacy. (Beni Prasad: 'Hindu-Muslim Questions,' pp. 15-16). In spite of temporary set-backs, it strengthened centripetal forces and drew the country steadfastly into a single political system. It did not destroy what was good in what it inherited from its predecessors. Everywhere the old Hindu frame-work of administration was maintained. The countryside was left much to itself to foster its old affinities, only partially tempered by the ways of the new regime. The Mughals built on old foundations wherever they could. The instruments selected for this purpose were mostly Hindu. Thus the foreign nature of their rule was obscured and a new spiritual and cultural synthesis was attempted as a counter-part of the new political order.

104. This synthesis had its manifestations in the several departments of State activity. In the region of art, this fundamental collaboration was pronounced. In architecture, for instance, new types

were created which embodied the excellence of the traditional modes of both Hindus and Muslims. It was an organic fusion of indigenous and saracenic motives and styles and derived from it its well-known grace and strength. As Havell has pointed out :

"In all the Indian Muhammadan styles . . . . at Delhi, Ajmer, Agra, Gaur, Malwa, Gujarat, Jaunpur and Bijapur. . . whether the local Rulers were Arab, Pathan, Turk, Persian, Mongol or Indian, the form and construction in the domes of mosques and tombs and palaces, as well as the Hindu symbols which crown them ; the *mihrabs* made to simulate Hindu shrines ; the arches often Hinduized in construction, in form nearly always; the symbolism which underlies the decorative and structural designs . . . all these tell us plainly that to the Indian builders the sect of the Prophet of Mecca was only one of the many which made up the synthesis of Hinduism; they could be good Muhammadans, but yet remain Hindus." ('Indian Architecture;' p. 101).

105. Referring to the fusion of the Hindu and Muslim styles in Gujarat, O. M. Moneer, of the Archaeological Survey of India says:

"The style evolved for Islamic buildings in Gujerat is the product of the impact of two equally vital traditions, namely, those of the indigenous medieval Hindu architecture which had a brilliant record to its credit, and of that which had already created the Qutb Minar, the Masjid-i-Quwwat-ul-Islam and the Jamat Khana Masjid at Nizammuddin in Delhi. While sufficient local talent capable of great achievements in architectural forms had been inherited in Gujerat itself by the Mussalmans, they had also brought with them their builders trained in the school of the so-called early Pathan architecture of Delhi. These latter alone were able to give the Muslim designs of Gujerat buildings a breadth and spaciousness which were wanting in the otherwise magnificent Hindu fabrics of this area. The result is that of all the styles of buildings which developed under Muslim auspices in India, the most elegant, and withal the most characteristic, is the one associated with the buildings of the Muslim Kings of Gujerat." ('Revealing India's Past;' Edited by Sir John Cumming, p. 73).

106. Professor Rawlinson in his 'Cultural History of India' writes as follows :—

"Indo-Islamic architecture then, is a fusion of Central Asian and Hindu concepts. This is clearly proved by the fact that

widely different styles, modified to suit local requirements, arose in different parts of the country. The earliest and most characteristic building of the period is the Kuwwat-ul-Islam or Mosque of the 'Might of Islam,' built by Kutub-ud-din Ibak to commemorate the capture of Delhi in 1193. The cloisters enclosing the central courtyard are supported by richly carved pillars looted from Hindu and Jain temples. The whole is enclosed by a colonnade consisting of a loftly central arch, 53 feet high, thanked by lower ones and profusely decorated with Koranic texts."

107. Similarly, the allied art of painting developed from the 16th century onwards in common schools working under the guidance and supervision of Hindu and Muslim masters. The products of these times still command the admiration of the world. These schools branched off later into various territorial schools, which, in addition to their special features, retained the distinctive grace and accuracy of the parental type.

108. The process of fusion was the most remarkable in the development of the art of music. That was perhaps because music is the best mode of the expression of the soul of a people. Though Indian music was originally Hindu in design and conception, the Muslims took to it with great avidity. It was akin to something which they had learnt to admire in their original home and was capable of satisfying their artistic aspirations under the dead weight of courtly routine. They made impressive contributions to Indian music. The mode called Khyal was the invention of Amir Khusrau. It was perfected by Sultan Hussain Shah Sharqui of Jaunpur, a noted ambassador of Hindu-Muslim collaboration. Muslims developed their own modes in which they specialised, giving birth to popular variants. Though classical music was woven round the names and achievements of Hindu Divinities, Muslims sang it with deep devotion, thereby establishing a tradition of mutual co-operation and understanding which continues unimpaired even to this day, when eminent Hindu and Muslim **Ustads** have disciples of both races often living together under their supervision and guidance. Likewise, in the allied art of Dancing, Muslims were responsible for the embellishment of grace and **abandon** which they grafted on the severity of the ancient Hindu modes.

109. In religious matters too there was a marked rapproachement, strange as it might seem to us in these days of separate electorates and Pakistan. Hindu converts, embracing Islam, helped the

process by retaining their ancient practices and beliefs and carrying them into the inner circles of Muslim thought. It could not escape the impact of Hindu Metaphysics and religious practices. Vedantic ideas had their reflection on Muslim conceptions of life and conduct. The debt was not, however, one-sided, for Islamic monotheism brought into conspicuous relief the concealed monotheism of Hindu theology.

> "The severity of the monotheistic creed of the Muhammadans was distinctly impressed upon the minds of these Prophets (Kabir, Nanak and others). The worshippers of Dattatraya, or the incarnation of the Hindu Trinity often clothed their God in the garb of a Muhammadan faqir. The same trend was at work with greater effect on the popular mind in Maharashtra, where preachers, both Brahman and non-Brahman, were calling the people to identify Rama with Rahim and ensure their freedom from bonds of formal ritualism and caste distinctions and unite in common love of man and faith in God." (Ranade: 'Rise of the Mahratta Power.' pp. 50, 51).

110. The Bhakti movement in Hinduism, which made the Divinity easily approahcable by prayer even for the unsophisticated, received an impetus from the democratic doctrines of Islam. Kabir (1440-1518) and Nanak (1469-1538) were notable instances of a combination of Hinduism and Islam. The teachings of Dadu, Chaitanya, Tukaram and many others show the same breadth of vision and the creative power of the new integration.

111. Any careful student of Indian history will admit that the process of assimilation has continued to operate for centuries and in spite of differences in certain matters, the character of which has been exaggerated by present political differences, the process of assimilation continues even to day. Writing on this point Professor Rawlinson says :—

> "A point of contact between Hinduism and Islam destined later on to produce far-reaching results was established through the influence of the Persian Sufis, a school of mystics which included famous poets such as Sadi, Jalal-ud-din Rumi and Hafiz, who held, under the forms of orthodoxy, views which approximated more or less closely to Hindu pantheism."

Equally important is the view of a very distinguished Muslim writer and Scholar Mr. Khuda Bukhsh. He has dealt with the whole question of Hindu-Muslim culture and unity in a remarkable passage in one of his books and we give below the whole of that passage:—

"It is a distressing fact that in India religion is made the base of the most hostile operations by one community against another. It is a fact which we must not and dare not overlook if we are to share our common burden, to work for our common good. We are constantly told that Mohamedans are a distinct people, as unlike the Hindus as the Semite is unlike the Aryan; that there are differences penetrating to the very root of life; differences of habit, temperament, social customs, racial type; that these differences are so vital and so enormous that the fusion between the two is a hopeless impossibility, and impracticable dream. Now I am not at all sure that this argument is sound. Admitting that the Mohamedans came to India as foreign conquerors as utterly different to the Hindus as the English are different to us both, we cannot forget that for many centuries they have lived side by side, freely mixing with the people of the land, mutually influencing each other, taking Indian women as their wives, adopting local customs and local usages; in fine, permeated and pervaded through and through by local characteristics and local peculiarities. The most infallible proof of this we find in the marriage ceremonies, which are entirely Hindu ceremonies, in the customs of the women-folk, such as the use of the vermilion mark, the symbol and token of wedded life, the restrictions imposed upon the dress and diet of widows, the disapproval, nay condemnation, of widow marriages, and, indeed, in a thousand little practices behind the zenana."

"All this indicates somewhat more than mere Superficial connection between the two races which mainly divide the Indian population. A yet clearer proof is the unity of language and the similarity of dress. Moreover, say what we will, a large number, in fact the largest portion of the Mohamedan population, are Hindu converts to Islam. It rests upon no unwarranted assumption, but upon well ascertained facts, that Hinduism and Mohamedanism have acted and reacted upon each other; influencing social institutions, colouring religious thoughts with their mutual, typical, religious hues. The Panthis of Kabir Das and the Nal Daman of Faizi are but conspicuous illustrations of the union of the two streams of Hinduism and Islam which, since Muslim conquest, have flowed side by side in India."

"Why and how comes now this bitterness of feeling between the two communities? Both live under the same laws, enjoy the same rights, share the same responsibilities, pay the same taxes, have the same educational facilities, and are eligible for the highest posts in the land. Wherein consists the difference or distinction between the two, the present writer is unable to find."

"Is it not to our interest to work together in concert and harmony, for we pursue the same goal: the intellectual and material prosperity of India? In mutual help and co-operation lies our hope, in division and dissension our feebleness and death. The Hindu and Mohamedan question is of but recent growth. It was unheard of in the last generation, though both the Hindus and Mohamedans were animated by one common spirit and kindled by one common zeal, and that was mutual brotherhood. The Mohamedans joined them in their festivities, shared in their joys, and stood by them in their sorrows, and they returned the compliment. The success of one was the joy of the other. The sorrow of the one was the sorrow of the other. There was a warm feeling of sympathy, and a strong feeling of responsibility for the less fortunate sections of the two communities."

"How different things then were to what they now are. We have called for a separate election, apparently, on the ground that we cannot trust the Hindus. We have got it, but we are not at all sure that it will help the cause, dear to all who are interested in tranquil peace, assured order, and intellectual and material progress of India—the cause of the union of the Hindus and Mohamedans. Could we cement good feeling between us by suggesting distrust? No! A thousand times no! But if the Mohamedans are to blame, the present writer cannot acquit the Hindus of blame altogether. They are ahead of us in both wealth and learning, and we expect from them help and sympathy. Do we get it? Very little indeed, if at all."

"This feeling of estrangement is growing worse day by day. Ought we not to heal the breach, to bridge the gulf, if we have really the good of India at heart?"

112. We may here refer to the views of some other distinguished writers including Muslims with a view to show that Hindu ideas and Muslim ideas have, during the course of centuries, been intermingling with each other and have brought about greater assimilation between the Hindus and the Muslims in actual affairs of life than perhaps is conceded at the present moment for obvious political reasons. Another distinguished Muslim public man Sir Hassan Suhrawardy in his introduction to Dr. A. J. Arberry's 'History of Sufism' writes as follows:—

> "The practice of many Hindu social customs (*bid'at*) is an Indian innovation not known in other Islamic countries. Pilgrimages to shrines of the saint, giving offerings and making vows, burning *chiragh* (the oil-lamp with a wick) over the tomb

of a saint, the partaking of sweets and food given as offerings on tombs and shrines of saints as sacred portions (*tabaruk*), are not indigenous to Islam, but a result of the influence of Hindu environment, which has also resulted in veneration for the Muslim saint, gradually merging into such phases as are hardly distinguishable from the saint worship of Hinduism, and the animistic phases of pagan primitive religious life. Indeed, the Muslim masses of India attend the *Urs* (or the annual commemoration prayers at the tomb of a saint) dressed in their best and gayest attire, with more enthusiasm and faith than in the observances of the cardinal principles of the faith of Islam."

Sir Herbert Risley who, apart from the distinguished position which he occcupied in the Indian Civil Service of the day, was known as a great authority on Indian History and Socialogy writes in his well known book 'The People of India' as follows :—

"Beneath the manifold diversity of physical and social type, language, custom, and religion, which strikes the observer in India, there can still be discerned (as Mr. Yusuf Ali has pointed out) 'a certain underlying uniformity of life from the Himalayas to Cape Comorin.' There *is*, in fact, an Indian character, and a general Indian personality, which we cannot resolve into its component elements."

Dr. Vincent Smith similarly writes in his 'Early History of India' as follows :—

"India is indisputably a geographical unit, and is, as such, rightly designated by one name. India offers unity in diversity —the underlying unity being less obvious than the superficial diversity. The most essentially fundamental unity of India rests on the fact that the diverse people of India have developed a peculiar type in the world. India beyond all doubt possesses a deep, underlying, fundamental unity, far more profound than that produced either by geographical isolation, or by political suzerainty. That unity transcends the innumerable diversities of blood, colour, language, dress, manners, and sect."

Lord Irwin (now Lord Halifax) made the following significant observation in the course of his speech at the Chelmsford Club, Delhi on the 26th of March 1931 :—

"Beneath all distinctions (in India) there is a general intellectual consciousness—or more truly self-consciousness—which is very closely akin to what we call Nationalism."

Professor L. F. Rushbrook William, who has been for many years in India as an educationist and official of the Government of India, and as a Minister of an Indian State, and who is reputed to be a very keen scholar of Indian History, makes the following observations:--

> "India is the home of an ancient, but still vital, civilisation. The civilisation of India, in its origins ancient, still exists in full flower, and is the greatest factor in the lives of one-fifth of the entire population of the world. This civilisation gives the whole country a fundamental unity; and even if the different peoples of India do not always see eye to eye on every issue, they possess quite sufficient consciousness of common unity. The typically Indian outlook has led to a view of human life, and of human institutions, which is quite different from the accepted ideas of the West. Real patriotism in India is patriotism to an idealized 'Mother India.'

Mr. L. S. S. O'Malley, a member of the Indian Civil Service, in his recent book on 'Modern India and the West', makes the following remarkable observations :—

> "India is united by a common culture, which for many centuries has been characterised by a remarkable continuity. India is the name of a culture, not of a race. Indian culture had an essential unity. India is both a geographical and cultural continuum."

A distinguished statesman, Sir Mirza Ismail, in the course of his convocation address delivered in 1942 observed as follows:—

> "There are those who prefer to think that India is not, and cannot be, one nation. To me, India, one Nation, is the most inspiring thought. I see, too, all around the growth of this consciousness. This is the land of all of us, to whatever race or creed we may belong. My country first, from which my life has sprung, whose people are my people, whose very soil is dear. He who has no country is nothing: the sap of life cannot flow into him, he must live on thin intellectual sunlight. Our first and deepest loyalty must be to our own country. In unity alone there is freedom, and in freedom alone lies real life and happiness. The destiny of India is unity."

113. In manners and customs too there was a similar fusion. The tone was set by the Imperial Court, where noblemen of both races vied with one another in approximating their manners to a common type approved by the Emperor. The standard set by the Court had to be attained by both races and this could not be done

except by shedding meaningless distinctions and differences tending to keep the two races apart.

114. As stated above, Muslims had adopted the Indian languages, though they often employed classical Persian and Arabic for higher or religious education and for purposes of administration. But, an easier medium had to be found and the Hindu and the Muslim both worked on the development of an indigenous dialect understood by large numbers of the common people. They refined and standardised its grammar, enriched its vocabulary and, from the 14th century onwards, raised it to the position which it has retained down to the present day amongst the northern dialects and languages.

115. Urdu, with a large admixture of Arabic and Persian words, and Hindi with a large content of Sanskrit words, became the two literary variants of this common language of the people. Many scholars, Hindu and Muslim, knew both variants and wrote in both. Akbar gave generous patronage to Hindi also and Birbal, his eminent Minister, won the coveted title of Kaviraj. Abdul Rahim Khan-i-Khanan, another Minister of Akbar, was a distinguished Hindi poet and his writings are still current. Ras Khan was another Muslim poet in Hindi. Persian exerted a powerful influence on the Braja Bhasha and was itself enriched by many a new word from Hindi. (See the 'Communal Triangle in India,' p. 60). In addition to Hindi and Urdu, the Hindus and Muslims jointly developed other languages and literatures also to mediate as means of intercommunication. The great provincial languages, Bengali, Marathi, Gujerati and Sindhi were developed with zest by both Hindus and Muslims from the 15th to the 19th century and a distinctly common literature grew as one of the most signifiacnt developments in medieval India. (See Beni Prasad; op. cit. p. 10).

116. On the political side, though the Mughal rapprochement was often dependent on the will of the monarch and was liable to be disturbed and varied from time to time according to his ideas, the fact remains that Hindus found considerable employment especially in those departments for which their inherited talent was found suitable. The Revenue and Finance Departments held out great scope for such talent. Akbar's Finance and Revenue Member Raja Todar Mal's name is well-known, as also the various changes in administration which he introduced, acquiring thereby the position of the highest dignitary of the State. Aurangazeb's Finance Member was also a Hindu of the name Raghnath. But, even in earlier days, the employment of Hindus in such positions was not infrequent. As early as 1325, when Muhammad Tughlak was Emperor of Delhi,

many Hindus were in his service and a Hindu by name Ratan was one of the highest officers in his Finance Department. When attack was made on such Hindu appointments by the Muslim noblemen of his time, Akbar defended them as follows:—

> "Who manages your properties and grants of lands," asked the Emperor.
>
> "Our Hindu agents," they answered.
>
> "Very good," said Akbar, "allow me also to appoint a Hindu to manage my estates."

('The Indian Mussalmans', by Sir W. Hunter, p. 157.)

117. In the army too, Hindus occupied a high position, more exalted than Indians occupy today. Sultan Mahmud of Ghazini, famous for his plunder of the Somanath temple, did not hesitate to employ a Hindu Commander and a large body of Hindu troops in his expeditions against Muslims. General Tilak, a Hindu, in fact suppressed the rebellion of the Ruler's Muslim general, Niyaltigin. The Sultan's son Masud went a step further and appointed Tilak commander of all his Indian troops. Shivaji and Aurangazeb, though mortal opponents for a quarter century, appear to resemble each other in the pursuit of this policy. Aurangazeb had in his service many Hindu officers. Maharaja Jaswant Singh and Raja Jai Singh, whom he often employed in his expeditions, rose to be Mansabdars and ultimately Governors of provinces. Shivaji, likewise, had in his employ a number of Muslim military officers and some of them rose to be generals like Siddi Hullal and Nur Khan. In Shivaji's Navy, there were at least three Muslim Admirals, Siddi Sambal, Siddi Misri and Daulat Khan. ('The Communal Triangle,' op. cit. p. 18).

118. Even after the break-up of the Mughal Empire owing to the revolt of the outlying Sultanates and the increasing might of the Mahrattas, the edifice of Hindu-Muslim co-operaion, built up by centuries of previous integration, was maintained with as little damage as possible. The lesson of the past was not forgotten that such co-operation had eased administration and stood the severest test of adverse circumstances. In the new states, which rose from the ruins of the Mughal Empire, the privileges and positions previously given to Hindus were maintained and Rajputs, Maharattas, Sikhs and Jats enjoyed, as before, important offices and the vital power of political direction. The momentum given to unifying forces by the Mughal Empire, as stated above, was maintained and the traditions of common administrative practices continued as before till the

Mahrattas engulfed the Muslim Empire and captured the very seat of power at Delhi.

119. This is the true record of the past, strange and unbelievable as it may seem in the light of the impressions carefully created and fostered by writers unacquainted with the true history and sentiments of the two communities and their mutual dependence and their respective heritages. Two such great sections of civilised humanity, thrown together for over a thousand years into intimate contact by the necessities of commerce, industry, social adaptation and political give and take, could not afford to live in perpetual discord. They, therefore, consciously evolved political and social adjustments, almost a cultural synthesis, which, but for the advent of dominating alien rule, might, in the natural course of evolution, have perfected itself by now. It has to be confessed, however, that the relations between the communities have, particularly during the last few years, registered an increasing deterioration. All the same, only a morbidly defeatist mentality can hold that this deterioration is more than a passing phase or that there can be no hope of continuing the existing political union between the two communities in this land and so perfecting it as to eliminate foreign rule and build up a strong independent All-India Federation. To permit ourselves to become victims of such pessimism will be unwise and disastrous. It will amount to turning a deaf ear to those compelling calls for unity and strength, which will not allow themselves to be ignored even in the din of present discords.

120. Both the communities are followers of great religions, which, like the other great religions of mankind, have a great deal in common. Both still claim allegiance to high ethical codes which have more than a facial resemblance. Fortunately, in India, religious cleavage does not run parallel to vital schisms—ethnic, linguistic or cultural. The tradition of a common past in literature, art and culture is still quite alive and can be easily and successfully strengthened by assiduous effort to make it a vital force. The heritage in religion and culture of tolerance and mutual respect, now three thousand years old, can be usefully employed to invigorate the identity which common economic interests establish. On past occasions when internal crisis of disruption threatened the country, Indian civilization proved itself capable of surmounting the danger through compromise and accommodation. The springs of its vitality and renovation are by no means exhausted; indeed they are perennial. The threat of a national catastrophe may yet call forth high moral qualities, compelling a closing of the ranks and a renunciation of differ-

ences. What is necessary is a conscious moral effort to extend the bounds of our sympathies, to deepen their foundations, to enlarge and purify our vision and to reinforce the unifying and harmonising influences which surround us. This is an obligation on all who believe and have faith in the rise of an integrated, strong and independent India, which, by reason of its immense resources, has a great part to play in the reconstructed world that is struggling to emerge out of the present chaos.

121. It will be clear from what is stated above that the view referred to in para 92 above has presented a distorted picture of Hindu-Muslim relations. It has placed an undue insistence on the things which divide and has ignored the bonds which unite the two communities. The genesis of this British view has to be traced back to the dark events of the Indian Rebellion of 1857, when the foundations of British rule were shaken to their depths by the combination and concerted action of certain important elements of the population. To prevent the recurrence of such a dangerous combination became the chief preoccupation of British policy. The areas, which had misbehaved, were given up as recruiting grounds for the Indian Army; those sections of the population, which were suspected of having taken an active part in the rebellion, had to suffer the full consequences of their misconduct. Those that had remained loyal were favoured. For about thirty years from 1857, the Muslims were in disfavour, because they were suspected of having taken a prominent part in the rebellion. A change, however, came after the foundation of the Indian National Congress in 1885 and its sharp reactions on a great Muslim leader, Sir Syed Ahmad Khan. Originally and for many years a great patriot standing for a united single nation comprising both communities, which he insisted on describing as the Hindu Nation, he gradually veered round to the view that the right policy for the Muslims, situated as they were, was steadfast loyalty to the British Government and dissociation from all forms of political activity which might bring them into conflict with their Rulers. Barring a few lapses under the influence of exceptional communal excitement or religious emotion, the bulk of the more conservative Muslim leaders had remained faithful to Sir Syed's policy.

122. Far different has been the history of the activities of non-Muslim leaders. Demand for self-government grew rapidly after the 1885 session of the Indain National Congress. In 1905, Gokhale, a statesman of rare political judgment and realism, asked, at the Benares session of the Congress, for the establishment of a system of government in India, similar to that prevailing in the self-governing

colonies of the British Empire. The following year, at the Congress session at Calcutta, the veteran Dadabhoy Naoroji demanded "Swaraj", a word which, while it fired the imagination of the people, alarmed the British Government to such an extent that prosecutions for sedition were launched against speakers who used this word. The word 'Swaraj', however, emerged successfully through all these trials and its use as an expression of the ideal of India's political aspirations received high and authoritative recognition in the speech of His late Majesty King George V, at the Delhi Durbar in 1911.

123. It would have been bad policy if the British Government had placed itself in a position to appear directly in the role of an opponent of Indian self-government. The narrative of the events given below will show how this appearance of direct conflict was avoided.

124. While Mr. Dadabhoy Naoroji was demanding. Swaraj, a separatist movement on the part of Muslims, of which the full significance was not realised at the time, began to take shape. It has grown steadily and during the last five or six years has attained great force. Sir Syed Ahmad Khan founded the Mohammedan Anglo-Orient College at Aligarh in 1877, which has since developed into the Aligarh Muslim University. The college was not only a seat of Western education for Muslim youth, but, under the active inspiration and guidance of its first three Principals, Beck, Morrison and Archbold, was also a centre of great political activity. Mr. Beck exercised no small influence over Sir Syed Ahmad in bringing about the radical change in the latter's political views that took place after the National movement found organised expression in the Indian National Congress. Writing in an English journal Mr. Beck expressed himself in the following terms:—

> "The past few years have witnessed the growth of two agitations in this country: one, the Indian National Congress, the other, the movement against cow-slaughter. The former is directed against the English, the latter against the Muslims. The objective of the Congress is to transfer the political control of the country from the British to the Hindus. It demands the repeal of the Arms Act, reduction of military expenditure and the consequential weakening of the frontier defences. Mussalmans can have no sympathy with these demands........In order to stop cow-slaughter, the Hindus have gone to the extent of boycotting the Muslims .... the result is seen in the sanguinary riots in Azamgarh and Bombay. It is imperative for the Muslims and the British to unite with a view to fighting these agitators

and prevent the introduction of democratic form of government, unsuited as it is to the needs and genius of the country. We, therefore, advocate loyalty to the government and Anglo-Muslim collaboration." (Ibid., translated from original Urdu.)

Mr. Beck and his successors were identified with the later political doctrines of Sir Syed Ahmad and were besides in close touch with the Government of India. After Sir Syed Ahmad's death in 1898, there were influential accessions to Muslim leadership at Aligarh in the persons of Nawab Mohsin-ul-Mulk and Nawab Vicar-ul-Mulk, who in succession held the office of Secretary of the M.A.O. College. In due course, a very influential deputation was organised, which waited on the Viceroy, Lord Minto, on the 1st October 1906.

125. It is now a matter of common knowledge that this deputation was not altogether spontaneous, but was inspired from Simla. In a letter to Nawab Mohsin-ul-Mulk, dated 10th August, 1906 Mr. Archbold, the then Principal of the M.A.O. College, elaborated the idea of this deputation. He also informed the Nawab that the proposal had the blessings of the Government. He wrote:

"Colonel Dunlop Smith, Private Secretary to H. E. the Viceroy, informs me that His Excellency is agreeable to receive the Muslim deputation. He advises that a formal letter requesting permission to wait on His Excellency be sent to him. In this connection, I would like to make a few suggestions. The formal letter should be sent with the signatures of some representative Mussalmans. The deputation should consist of the representatives of all the provinces. The third point to be considered is the text of the address. I would here suggest that we begin with a solemn expression of loyalty. The Government decision to take a step in the direction of self-government should be appreciated. But our apprehension should be expressed that the principle of election, if introduced, would prove detrimental to the interest of the Muslim minority. It should respectfully be suggested that nomination or representation by religion be introduced to meet Muslim opinion. We should also say, that in a country like India, due weight must be given to the views of zamindars.

"Personally I think it will be wise of the Muslims to support nomination, as the time to experiment with elections has not yet come. In elections it will be very difficult for the Muslims to secure their due share. But in all these views, I must be in the background. They must come from you ...... I can prepare for you the draft of the Address or revise it. If it is prepared

in Bombay, I can go through it as, you are aware, I know how to phrase these things in proper language. Please remember that if we want to organise a powerful movement in the short time at our disposal, we must expedite matters." (re-translated from Urdu, 'Mussalmanon Ka Mustaqbil).

126. It is hardly a matter for surprise that the late Moulana Mahomed Ali described this deputation as a Command performance. The late Mr. Ramsay MacDonald has recorded his opinion that it was officialdom that was responsible for the demand as well as the actual introduction of separate electorates.

"The All-India Moslem League was formed on December 30, 1906. 'The political successes which have rewarded the efforts of this League are so fresh in the public mind that I need not refer to them specifically. They have been so signal as to give support to a suspicion that sinister influences have been at work, that the Mohammedan leaders were inspired by certain Anglo-Indian officials, and that these officials pulled wires at Simla and in London and of malice aforethought sowed discord between the Hindu and the Mohammedan communities by showing the Mohammedans special favour." (Ramsay MacDonald: 'Awakening of India,' pp. 283-4).

127. Lord Morley, the Secretary of State for India at this time, who himself favoured joint electorates with reservation of seats, had to declare later that it was the Viceroy Lord Minto that first started the Mahomedan hare, that he was convinced that his own decision was right. (Viscount Morley: 'Recollections,' Vol. 2, p. 325).

128. This deputation is a landmark in the modern political history of the country. We quote below a pertinent extract from Lady Minto's private journal (see 'Lady Minto's India,' Minto and Morley 1905-1910, pp. 45-48), which shows the significance attached in Viceregal circles to this deputation led by H. H. the Aga Khan and the ill-concealed glea with which its successful engineering was greeted at the time in those circles.

"October 1, 1906, Simla. This has been a very eventful day, as some one said to me, 'an epoch in Indian history.' We are aware of the feeling of unrest that exists throughout India, and the dissatisfaction that prevails amongst people of all classes and creeds. The Mahommedan population, which numbers sixty-two millions, who have always been intensely loyal, resent not having proper representation, and consider themselves slighted in many ways, preference having been given to the Hindus. The

agitators have been most anxious to foster this feeling and have naturally done their utmost to secure the co-operation of this vast community. The younger generation were wavering, inclined to throw in their lot with the advanced agitators of the Congress, and a howl went up that the loyal Mahommedans were not to be supported and that the agitators were to obtain their demands through agitation. The Mahommedans decided, before taking action, that they would bring an Address before the Viceroy, mentioning their grievances ....

"The Aga Khan is the spiritual head of the Khoja Moslem community .... This Prince was selected to read the very long but excellent address stating all their grievances and aspirations. Minto then read his answer, which he had thought out most carefully. It was impossible to promise them too much for fear of offending other communities, but as he spoke, in very clear distinct tones, murmurs of satisfaction passed through the audience .... This evening I have received the following letter from an official: 'I must send Your Excellency a line to say that a very, very big thing has happened today. A work of statesmanship that will affect India and Indian history for many a long year. It is nothing less than the pulling back of 62 millions of people from joining the ranks of the seditious opposition—' Very much the same view was taken at Whitehall."

129. The deputation after expressing their appreciation of "the incalculable benefits conferred by British rule on the teeming millions belonging to diverse races and professing diverse religions, who form the population of the vast continent of India," put forward the following major demands on behalf of the Muslim community:—

1. That the importance of the Muslim community in any scheme of representation must not be measured by its population alone but by its political importance, by the position which it occupied "a little more than hundred years ago" and "by the value of the contribution which they make to the defence of the Empire."
2. That representative institutions of the European type, unless adapted to the social, religious and political conditions obtaining in India, are likely to place the national interests of Muslims, who are a distinct community, at the mercy of an unsympathetic majority. It is, therefore, necessary that the election of Muslim representatives should lie in the hands of Muslims only whether to the Provincial and Central Legislatures or to local bodies.
3. That Muslims should have an adequate share of posts under Government and that, in filling them, reliance should not be placed

on a system of competitive examinations as the efforts of Mahomedan educationists "have from the very outset of the educational movement among them been strenuously directed towards the development of character."

130. The extracts from the Viceroy's reply, given below are also significant:

(a) "Your Address, as I understand it, is a claim that, in any system of representation, whether it affects a Municipality, a District Board or Legislative Council, in which it is proposed to introduce or increase an electoral organisation, the Mahomedan community should be represented as a community. You point out that in many cases electoral bodies, as now constituted, cannot be expected to return a Mahomedan candidate, and that if by chance they did so, it could only be at the sacrifice of such a candidate's views to those of a majority opposed to his own community, whom he would in no way represent, and you justly claim that your position should be estimated not merely on your numerical strength but in respect to the political importance of your community and the service it has rendered to the Empire."

(b) "I am entirely in accord with you. Please do not misunderstand me. I make no attempt to indicate by what means the representation of communities can be obtained, but I am as firmly convinced as I believe you to be, that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement, regardless of the beliefs and traditions of the communities composing the population of this continent. The great mass of the people of India have no knowledge of representative institutions."

131. The deputation's demand for separate electorates and for weightage was ultimately accepted by Lord Morley with great hesitation and was incorporated in the Act of 1909.

132. Whilst the Muslims, led by Aligarh, had gained a signal triumph, Hindu India had been deeply agitated over the partition of Bengal in 1905, by which the Province was split up in a way which was regarded by the Bengal Hindus as a deliberate attempt to weaken their influence by creating a separate Eastern Muslim Province. Intense agitation continued from 1907-10, from which Muslims generally held aloof. In 1911, at the King Emperor's Durbar at Delhi, the annulment of the partition of Bengal was announced. This and

the events affecting Islamic Kingdoms in the Middle East created a stir amongst the Muslims and the younger section among them tended to be drawn towards political union with the Hindus.

133. The position of the Muslim community at the time has been so admirably summarised in the Report on Indian Constitutional Reform (para 27), that we make no apology in giving the following quotation:—

> "Probably few communities could have passed through so prolonged a period of trial without some cleavage in their ranks. The curmbling of Islamic Kingdoms in Morocco and Persia had led Indian Muhammedans to cling more closely than ever to Turkey as the great surviving Muslim power in the world; and when Turkey was threatened first by Italy and then by the Balkan League, the excited fancy of many Indian Muslims saw in these events a concerted plot of the Christian Powers to make an end of Islam as a temporal power. The re-partition of Bengal and also the check to the hopes entertained by a great Muhammedan University depressed the minds of many honest Muslims with a sense of their inefficiency. There were those who, feeling mainly their political weakness compared with the Hindus, wished to have done with agitation and excitement, to concentrate efforts on education and to rely on Government for protection and fair-play. Younger and keener minds, touched often with some fervour of pan-Islamism, were no longer willing **stare super antiquas vias**. The advanced party prevailed in the counsels of the Muslim League; in 1913 it proclaimed its adoption of the cause of colonial self-government of a kind suited to India and was warmly eulogized by the Congress for so doing. So far as pan-Islamic feeling affected the situation, that factor did not tend of course towards union with the Hindus; but at the time stronger causes were at work to bring the advanced parties on both sides together. With them at all events the new nationalism produced by the war prevailed, and at the meetings at Lucknow in Christmas week, 1916, Congress and League came formally together and the conservative portion of Muhammedan opinion which remained outside the **concordat** was ignored. This agreement, however, represents the beginning of united action between Hindus and Muhammedans which every well-wisher of India hopes will grow."

134. In October 1916, nineteen elected members of the Indian Legislative Council submitted to the Government of India, a memo-

randum of proposed reforms. The Muslims put forward their proposals. Their main demands were:

(1) the principle of separate representation should be extended to the Punjab and the Central Provinces; (previously excluded under the terms of the Act of 1909)

(2) fixation of the number of Muslim seats in the Provincial and Imperial Legislative Councils; and

(3) safeguards against legislation affecting Muslims, their religion and religious usages.

135. The Lucknow Pact is memorable for many reasons. It showed that Hindus and Muslims could unite to make a common political demand to the British Government. Mutual concessions were made. Confining our attention to the three main demands of the Muslims, viz., separate electorates, extent of Muslim representation and safeguards, this is what the Pact conceded:—

"Adequate provision should be made for the representation of important minorities by election and the Muslims should be represented through special electorates in the Provincial Legislative Councils in the following proportions:—

Punjab	..	One-half of the elected Indian members.
United Provinces	..	30% „ „ „
Bengal	..	40% „ „ „
Bihar	..	25% „ „ „
Central Provinces	..	15% „ „ „
Madras	..	15% „ „ „
Bombay	..	one-third „ „

Provided that no Muslim shall participate in any of the other elections to the Imperial or Provincial Legislative Councils, save and except those by electorates representing special interests.

Provided further that no Bill, nor any clause thereof, nor a resolution introduced by a non-official member affecting one or the other community which question is to be determined by the members of that community in the Legislative Council concerned, shall be proceeded with, if three-fourths of the members of that community in the particular Council, Imperial or Provincial, oppose the Bill or any clause thereof or the resolution."

136. Separate electorates for Muslims were agreed to and were to be extended to the Punjab and the Central Provinces. Seats were allotted on a very generous scale. As compared with the extent of

Muslim representation under the Morley-Minto Reforms, the increase was as follows in Bengal and the Punjab:—

Bengal from 10.7 to 40%
Punjab from 25 to 50% ..

The following table gives further particulars for the whole of India of the extent of representation and the weightage which the Muslim community received in excess of what had been given to it in 1908-9, as a result of the Lucknow Pact:—

Legislative Body	Percentage of Muslims to total population of the electoral area.	Percentage of Moslem voters to total voters in general constituencies (1926)	Present (1929) percentage of Moslem members to total number of members.	Present (1929) percentage of Moslem elected members to total No. of elected Indian Members.	Present (1929) percentage of Moslem members to total members in seats filled by election from Indian general (communal) constituencies.	Lucknow Pact percentage.	Weightage for minorities percentage of cols. 6—1.
	1	2	3*	4*	5	6	
Punjab	54.8	43.7	40	48.5	50	50	91
United Provinces	14.0	14.1	25	30	32.5	30	214
Bengal	52.6	45.1	30	40.5	46	40	76
Bihar & Orissa	10.5	10.9	18.5	25	27	25	238
Central Provinces	4.3	8.4	9.5	13	14.5	15	349
Madras	6.5	4.7	10.5	14	16.5	15	231
Bombay	20.4	17.7	25.5	35	37	33.3	163
Assam	32.3	30.1	30	35.5	37.5	no provision	—
Legislative Assembly	24.0	16.5	26	34	38	33.3	—

NOTE:— Columns 2 to 6 are taken from p. 189 of Simon Commission Report, Part II. Col. 4 includes Indians elected by special constituencies, e.g. commerce, whose communal proportions may of course vary slightly from time to time. Similarly, Col. 3, including also officials and nominated non-officials, will show slightly different results at different periods.

137. With regard to the Imperial Legislative Council, the Pact provided that 1/3 of the Indian elected members should be Muslims elected by separate Muslim electorates in the several provinces, in the proportion, as nearly as might be, in which they were represented on the provincial Legislative Councils by separate Muslim electorates. In the Act of 1919, Muslim representation followed the line of the Pact.

138. Among others, who had taken a notable part in the Lucknow Pact, was Tilak. Gokhale had accepted communal electorates in 1909. Tilak did so in 1916. His acceptance was based on the hope that communal electorates would only be temporary and that the Muslims themselves would soon give them up. His hopes were shared by Mr. Jinnah, as will appear from the following extract of his evidence before the Parliamentary Select Committee in 1919:

Question No. 3810: examined by Major Ormsby-Gore.

"You said, you spoke from the point of view of India? You speak really as an Indian nationalist?"—I do.

Question No. 3811.

"That is to say that the earliest possible moment you wish to do away in political life with any distinction between Muhammedan and Hindu—Yes; nothing will please me more when that day comes."

139. Although the Hindus had with this hope agreed to separate electorates for the Muslims, they soon realised that, instead of promoting harmony, they had widened the gulf between them and the Muslims. Consequently, during the next few years repeated but unsuccessful attempts were made, by means of All-Party conferences and conventions, to bridge this gulf. An important conference was held in Lucknow in 1928 and a committee was appointed which came to be known as the Nehru Committee. Among its members were Pandit Motilal Nehru (Chairman), Sir Ali Imam and Sir Tej Bahadur Sapru. While making other concessions to the Muslims, the Committee, unlike the framers of the Lucknow Pact, made no concessions to the Muslims on the question of separate electorates. They declared that separate electorates violated the essential principles of responsible government and had "failed to pave the way to a better understanding between the communities." They, therefore, recommended that all elections should be by joint or mixed electorates and that the only communal safeguard should be reservation of seats and that too for Muslims only and not for any other community or group, excepting non-Muslims in the North-West Frontier Province. The reservation of seats for Muslims was limited to the Centre and to Provinces where they were in a minority. The right to contest other than reserved seats was to be conceded, but no weightage was to be allowed; the number of seats reserved was to be in strict proportion to the size of the community. "A minority must remain a minority whether any seats are reserved for it or not." These recommendations, however, did not satisfy the Muslims. So, a further attempt to heal the breach was made by convening a National Convention at Calcutta in December 1928, at which Mahatma Gandhi was present. It, however, broke up without bringing about a settlement. Its only result was to unite the two wings of the Muslim League, which had been divided for some time, one led by Sir Muhammad Shafi and the other by Mr. Jinnah. Later, an All-India Muslim Conference met at Delhi, on January 1, 1929, and adopted a resolution as follows:—

"Whereas, in view of India's vast extent and its ethnological, linguistic, administrative and geographical or territorial divisions, the only form of government suitable to Indian conditions is a federal system with complete autonomy and residuary powers vested in the constituent States, the Central Government having control only of such matters of common interest as may be specifically entrusted to it by the Constitution;

And whereas it is essential that no Bill, resolution, motion or amendment regarding inter-communal matters be moved, discussed or passed by any legislature, central or provincial, if a three-fourths majority of the members of either the Hindu or the Muslim community affected thereby in that legislature oppose the introduction, discussion or passing of such Bill, resolution, motion or amendment;

And whereas the right of Moslems to elect their representatives on the various Indian Legislatures through separate electorates is now the law of the land and Muslims cannot be deprived of that right without their consent;

And whereas in the conditions existing at present in India and so long as those conditions continue to exist, representation in various Legislatures and other statutory self-governing bodies of Muslims through their own separate electorates is essential in order to bring into existence a really representative democratic government;

And whereas as long as Mussalmans are not satisfied that their rights and interests are adequately safeguarded in the constitution, they will in no way consent to the establishment of joint electorates, whether with or without conditions;

And whereas, for the purposes aforesaid, it is essential that Mussalmans should have their due share in the central and provincial cabinets;

And whereas it is essential that representation of Mussalmans in the various legislatures and other statutory self-governing bodies should be based on a plan whereby the Muslim majority in those provinces where Muslims constitute a majority of population shall in no way be affected and in the provinces in which Mussalmans constitute a minority they shall have a representation in no case less than that enjoyed by them under the existing law;

And whereas representative Muslim gatherings in all Provinces in India have unanimously resolved that with a view to provide adequate safeguards for the protection of Muslim in-

terests in India as a whole, Mussalmans should have the right of 33 per cent representation in the Central Legislature and this Conference entirely endorses that demand;

And whereas on ethnological, linguistic, geographical and administrative grounds the province of Sind has no affinity whatever with the rest of the Bombay Presidency and its unconditional constitution into a separate province, possessing its own separate legislative and administrative machinery on the same lines as in other provinces of India is essential in the interests of its people, the Hindu minority in Sind being given adequate and elective representation in excess of their proportion in the population, as may be given to Mussalmans in provinces in which they constitute a minority of population;

And whereas the introduction of constitutional reforms in the N.-W.F. Province and Baluchistan along such lines as may be adopted in other provinces of India is essential not only in the interests of those provinces but also of the constitutional advance of India as a whole, the Hindu minorities in those provinces being given adequate and effective representation in excess of their proportion in population, as is given to the Muslim community in provinces in which it constitutes a minority of the population;

And whereas it is essential in the interests of Indian administration that provision should be made in the constitution giving Muslims their adequate share along with other Indians in all services of the State and on all Statutory self-governing bodies, having due regard to the requirements of efficiency;

And whereas having regard to the political conditions obtaining in India it is essential that the Indian constitution should embody adequate safeguards for protection and promotion of Muslim education, languages, religion, personal law and Muslim charitable institutions, and for their due share in grants-in-aid;

And whereas it is essential that the constitution should provide that no change in the Indian constitution shall, after its inauguration, be made by the Central Legislature except with the concurrence of all the States constituting the Indian Federation;

This Conference emphatically declares that no constitution, by whomsoever proposed or devised, will be acceptable to Indian Mussalmans unless it conforms with the principles embodied in this resolution."

140. Thus, the schism between the Muslim League and other parties was for the moment complete. The Nehru Committee's recommendation, both as regards weightage and joint electorates, was rejected. In the opening paragraph of the Delhi resolution, a federal constitution for India was visualised as opposed to the Nehru Committee's recommendation of a Unitary Government.

141. In 1930, the First Indian Round Table Conference was held in London, followed by two more in 1931 and 1932. It is unnecessary to describe in detail the proceedings of these conferences, when all attempts to come to an agreement on communal issues failed. It was open to His Majesty's Government to decline to proceed further with their scheme of reform, on the ground that there was no agreement between the main elements of India's population. But, at that time, the British Government's attitude was in sharp contrast to its present policy beginning with Viceroy Linlithgow's declaration of August 1940. The British Prime Minister, Mr. Ramsay MacDonald, observed:

> "The British Government wants to go on; the British Government wants you to go on. The British Government will take its action if you cannot go on to an end, because we are determined to make such improvements of India............."

142. It thus became necessary for His Majesty's Government to make the Communal Award dated August 4, 1932, which is printed in full at pages 6-10 of pamphlet No. 1. It will be enough for our purpose to say that while the Award was supported by the Muslims, it was strongly opposed by a large section of Hindus, specially those of Bengal and the Punjab. Under it, communal electorates remained. Hindu minorities in the Punjab and Bengal have been given a representation below the proportion of their population, while in Bengal the British community have been given excessive representation. Moreover, in the Punjab, a statutory Muslim majority over all parties has been created and in Bengal a statutory Muslim majority over the Hindus. The Communal Award has been implemented in the Government of India Act 1935. Later, Government have made it clear in a communique, issued on July 2, 1935, that His Majesty's Government would not recommend any changes within the range of the Communal Award, unless such changes had been agreed to between the communities concerned.

143. The present position, therefore, is that so far as the British Government are concerned, unless there is agreement between the communities to the contrary, separate elctorates for Muslims will

continue and the number of seats will be in accordance with the Award.

144. We now propose to examine the argument for and against separate electorates for Muslims and to discuss their effects on the relations between the Hindus and Muslims. As we stated in paragraph 128 above, the first statutory recognition of separate electorates for Muslims was contained in the Act of 1909. The main grounds urged in its favour are that, if Hindus have a voice in the choice of Muslim representatives, only such Muslims will be elected as would be under the influence of Hindus and would not, therefore, satisfactorily represent their community; that in a country like India, divided by race, religion and castes, the only effective safeguard for a community is the right to choose its representatives exclusively from its own members. The main ground, however, on which British authorities have acquiesced in the continuance of separate electorates is that the system ras become a settled fact for many years and any attempt to reopen it without the consent of the Muslms would be a breach of faith on the part of the British Government. A full discussion of this vexed question is to be found in the Report on Indian Constitutional Reforms (Montagu-Chelmsford Report, paras 227-231).

145. Let us examine the argument of "settled fact" a little more closely. When the Muslim deputation waited on Lord Minto in 1906, the Government of the country was predominantly in British hands. The Legislatures, based on a very narrow franchise, had very limited powers and their main function was not to control the Executive but to represent to the British Rulers the grievances and wants of the people. The representation by communities had then a plausible basis. But the situation became radically different with the announcement of the policy of carrying India towards responsible Government, which since 1919 has been progressively implemented and with the consequent wide extension of the franchise, Ministers in the provinces are now chosen exclusively from the Legislature and are responsible to it. The Legislature can make and unmake ministries. A Legislature with such wide powers, if constituted on the basis of separate communal electorates, in which one community has no opportunity to influence the choice of the representatives of the other community, creates a permanent majority and minority based exclusively on religion, from which there is no escape. The ministry will be composed of men returned, not because they enjoy the suffrages of both communities and therefore

are under pressure to safeguard the interests of both, but because they are regarded as the most uncompromising champions of the interest of their own community. Such a ministry lends itself to constant attacks both inside and outside the legislature on grounds of communal bias.

146. The learned authors of the Montagu-Chelmsford Report came unhesitatingly to the conclusion "that the history of self-government among the nations who developed it (Responsible Government) and spread it through the world is decisively against the admission by the State of any divided allegiance and against the State's arranging its members in any way which encourages them to think of themselves primarily as Citizens of any smaller unit than itself." They did not fail to give the warning that "division by creeds and classes means the creation of political camps organised against each other"—we would add here "on other than national considerations"—"and teaches men to think as partisans and not as citizens and it is difficult to see how the change from this system to national representation is ever to occur." The history of communal representation through separate electorates, particularly the history of the Muslim League, during the 25 years that have elapsed is standing testimony to the correctness of judgment of those who were responsible for these observations. That judgment was endorsed whole-heartedly by the Simon Commission. And yet both in the 1919 and in the 1935 amendments to the Act, separate electorates were not interfered with mainly on the ground that they were a settled fact, any unsettling of which would be condemned by the Muslims as amounting to the withdrawal of the valued privilege which had been accorded to them in 1906. The problem of choosing the members of **responsible** ministries in the provinces from legislatures based on separate communal electorates had to be squarely faced in 1935 with the prospect of the advent of provincial autonomy but, beyond recommending a minor amendment to the Instrument of Instructions to Governors, the Joint Parliamentary Committee evaded the only satisfactory solution of it in the hope "that, in the future, parties may develop in the Provincial Legislatures which will cut across communal lines." The actual development has, however, been, in the case of the Muslims, the rise and growth of a frankly communal party, in the Legislature and outside, which has claimed and obtained from responsible authorities the right, in legislative debate and political negotiations outside, not merely a status of political equality with national political parties and organisations but even to demand that no Muslim who does not

belong to it but belongs to a nationally organised party can be considered a representative of his community.

147. In the only election that has been so far held since the inauguration of provincial responsible governments in 1937, the Congress alone sought the suffrage of the electorate as a national party. The Congress candidates, relying for their success on their powerful party organization, on the immense influence of Mahatma Gandhi and on the energy and drive of their leaders, made no communal approach to the electorate, but based their appeal on the interests of the masss. On the other hand, the Muslim League, though it had not assumed its present militant role as the sole representative of all Muslims, could make no such appeal with the result that the number of avowed Leaguers returned was small. The communal bitterness, that was engendered by these results and more particularly by the exclusion of Leaguers from the Ministries formed in the Congress majority provinces, has increased to such an extent that the cry has gone forth from the Muslim League that Muslims must form their own separate State. Every extention of the franchise will only increase the evil, if communities have to vote in water-tight compartments. If, on a decline of the influence of Congress ideals at any future date, the Indian elections are fought on a purely communal ticket, only fanatics of both the communities will be returned, who will make good government impossible. Recent experience has shown that communal electorates will make the task of forming governments on the basis of political parties almost impossible. Ministries will be constantly exposed to pressure to make them more and more communal. The recent struggle between the Muslim League and the Unionist Ministry in the Punjab is a striking example of this tendency. Every election will become an arena of mutual vilification of Hindus and Muslims and the minorities will be at the complete mercy of a permanent majority of extremists. What was once regarded as a necessary means for the protection of minority interests, is fast becoming a potent cause of mutual hatred and suspicion, keeping the two communities increasingly apart.

148. The contagion has already spread over Municipalities, District Boards and other local bodies. It has fed the desire that in every organizations, e.g., Chambers of Commerce, labour organizations and even Universities, Muslims should have separate electorates. Suggestions are not wanting that, in the name of the peace and tranquillity of India, this division should be carried down to every village and hamlet.

149. The contagion is likewise spreading to the Indian States as legislative and other popular elected bodies come to be established. This could not have been anticipated when separate electorates were first established in British India. It is almost certain that, if communal electorates persist in British India, they will become common in course of time in the Indian States with results no less disastrous.

150. Another argument is that the Hindus agreed to separate electorates in 1916 and that they have, therefore, no right to condemn them now. If there is to be a change, it is argued, it must be by common consent. We have already pointed out in a previous paragraph (No. 44) that Hindu leaders like Tilak and Muslim leaders like Jinnah regarded separate electorates as temporary. In the All-Parties Conferences, one held in 1925 and the other in 1928, Mr. Jinnah was prepared to settle the Hindu-Muslim question on the basis of joint electorates. In 1927, speaking from the League platform, he said:

> "I am not wedded to separate electorates, although I must say that the overwhelming majority of the Mussalmans firmly and honestly believe that it is the only method by which they can be sure." (Dr. Ambedkar's 'Pakisatn,' 1945 Edn., p. 314).

Even as late as 1931, addressing the U.P. Muslim Conference held at Allahabad on the 8th of August, Mr. Jinnah said:

> "The next question that arises is one of separate vs. joint electorates. As most of you know, if a majority is conceded in the Punjab and Bengal, I would personally prefer a settlement on the basis of joint electorate." (ibid., p. 315).

Sir Muhammad Shafi was prepared to agree to joint electorates in 1932, during the meetings of the Minorities Sub-Committee of the Round Table Conference, provided that the Hindus were prepared to make certain concessions. It can be inferred from these pronouncements of Muslim leaders that, till not very long ago, several of their outstanding representatives were prepared to abandon separate electorates for a *quid pro quo*. Unfortunately, however, the attitude of the British Government in this vital matter has been halting and cynical and has given room for the not unreasonable suspicion that they desired to stereotype divisions so as 'to preserve undisturbed and indisputable the fabric of British Power.'

151. The unreserved condemnation of separate electorates in principle and on the merits by their spokesmen, coupled with their maintenance in fact stamps this attitude as hypocritical—a charge which, nearly thirty years ago, the Montagu-Chelmsford Report

warned the Government, would be made and which it would find very difficult to meet.

152. It is an encouraging sign that some Muslim leaders at least are aware of the dangers of separate electorates, as will appear from the following extracts from memoranda submitted to the Committee and printed in pamphlet No. 7. Mr. Tufail Ahmad of Aligarh says:— (p.14).

> "The chief drawback in the system of communal electorates is that the voters are divided on religious basis. Every election means propaganda mostly in respect of the high-handedness of one community against the other and promises for safeguarding their interests—it being the line of least resistance both for Muslim and non-Muslim candidates, and this separation resulted in estrangement which later on developed into mutual hatred. Lord Morley, the late Secretary of State for India, had said, 'by introducing communal electorates we are sowing dragon's teeth and the harvest would be bitter. The above prophecy unfortunately proved true to the word and the communal riots continued to multiply from year to year. The comparative ease to the candidates for legislative and other elective bodies in winning the votes on communal basis makes them stick to this separation with greater tenacity and, being the most vocal part of the population, they, in spite of the bitter experience of decades, insisted on the retention of communal electorates for their personal ease and benefit."

He sums up his conclusions as follows :—(p. 15).

> "In short, so long as the masses are divided into hostile groups and water-tight compartments on the basis of separate electorates, so long as they are not conceded once more the right of voting for the members of all the communities on an equal basis, there is no possibility of the introduction of a genuine form of parliamentary government, establishment of peace or the removal of political servitude in this country. Even the division of India into two sovereign States, which is the logical sequence of the present system of electorate, would only give power to the upper classes and would not mitigate the miseries of the masses of both the communities, so long as the system of separate election exists and any compromise based on the latter system will only perpetuate the exploitation of the lower classes, while the parliamentary system of government will continue to be held responsible for evils which owe their origin elsewhere."

153. Mr. A. M. Khwaja, President of the All-India Muslim Majlis, in a detailed memorandum, submitted to the Committee, while on the one hand severely criticising (1) the social exclusiveness of Hindu society, (2) the caste system and (3) the exclusiveness of the Hindus in the economic field, observes on the other as follows:—

> "All elections, whether to any legislature or Board, shall be on the basis of joint electorates, provided that the minorities shall have the minimum of their seats reserved according to their number and shall be entitled to contest other seats also."

154. Nawab Sir Amin Jung, a distinguished nobleman of Hyderabad, has, in a memorandum submitted to the Committee, (see Pamphlet No. 7) made the following statement:—

> "I repeat that no electorate or constituency throughout the country should be reserved exclusively for Hindus or exclusively for Muslims or exclusively for Sikhs or others; all electorates or constituencies should contain voters of all religions, all sects and all interests such as trade, professions, etc."

155. We are unreservedly of opinion that separate electorates have been the curse of Indian politics for nearly 40 years and that, unless they are abolished, the achievement of independence or full self-government must continue to remain a dream. The settled fact must be unsettled. But for the decision (pledge as it has sometimes been described) in 1906, the authoritative pronouncements have made it clear, a different policy would have been adopted long ago. That decision was confessedly a mistaken and wrong one, however deliberately it may have been taken. No Government, which is not merely in power but accepts active responsibility for right decisions, can legitimately flinch from the task of righting a manifestly wrong decision which, though nearly forty years old, has been so mischievous in its effects. We hope the present Labour Government in Britain with its high democratic ideals and the enormous voting strength behind it, will not lack the courage to get this decision reversed with the support of Parliament. We have no doubt that such reversal would be to the lasting benefit of the Muslims themselves.

156. So great is the importance that the Committee attaches to the abolition of separate communal electorates that we consider the concession of parity of representation in the Central Legislative Assembly between Muslims and Hindus other than Scheduled Castes not too heavy a price to pay for the removal once for all of this great impediment to communal harmony. In our recommendation, regarding the composition of the Union Assembly under the future consti-

tution, (Recommendation 9(e)(i), we have made the following suggestion:—

> "In case the Muslim community on their part agree to the substitution throughout of joint electorates with reservation of seats for separate communal electorates, and in that case only, this Committee would recommend that, in the interests of promoting national unity, the Hindu community should agree that in the strength of the Central Assembly excluding the seats allotted to special interests, such as commerce and industry, landholders, labour, etc., Muslim representation from British India shall be on a par with the representation given to the Hindus (other than Scheduled Castes) in spite of the great disparity in their respective population strength.
>
> The Committee desire to emphasise their view that, if this recommendation is not to be implemented in its entirety, the Hindu community should be at liberty not merely not to agree to the claim for parity of representation but to ask for a revision of the Communal Award."

157. We are aware of the criticisms which this proposal has evoked. The Hindus have generally taken strong objection to it on the ground that, as the Hindus form 69 per cent of the population in British India and the Muslims about 27 per cent, one Muslim will, under this scheme, be regarded as equal to two Hindus other than the Scheduled Castes. Hindus apprehend that, looking at the history of past concessions to the Muslim community, the British Government are likely to accept the recommendation of parity without the very important proviso that the Muslims, on their part, must first accept joint electorates throughout. The fears of the Hindus have not been without grounds. We cite below a few instances showing the extent to which concessions strictly limited by conditions made to Muslims from time to time have been sanctioned by the British Government, completely ignoring the limiting provisos:

(1) **The Lucknow Pact—1916:**

(a) Separate electorates and weightage for Muslims formed only a part of an entire agreed scheme which contains many other demands of a far-reaching character. For example, no I.C.S. Governors in provinces and large powers for Provincil Councils, etc., etc. The separate electorates and weightages were conceded, while he other demands were rejected by the British Government.

(b) The Pact was based on the principle that a community was entitled to protection (separate electorates) only where it

was a minority. The Muslim community in the Punjab and Bengal, being in a majority, was not entitled to this protection. They, however, obtained in the Lucknow Pact separate electorates, but only on dropping their majority. Under the 1935 Act, however, they retained communal electorates and, at the same time, enjoyed, in the Punjab, a statutory majority over the rest and, in Bengal, a statutory majority over the Hindus.

(2) **The Nehru Pact: Concessions:**

(a) The North-West Frontier Province, with 90% Muslim population, to have the same status as other provinces.

(b) Sind to be detached from the Bombay Presidency, but only on condition that the system of Government outlined in the Report comes into being.

Limiting Conditions:

(i) Communal electorates to go. The only safeguard being reservation of seats only to the Muslims and to non-Muslims in the N.-W.F. Province.

(ii) No reservation of seats for Muslims except at the Centre in the Provinces where they are in a minority.

(iii) The right to contest seats other than reserved to be conceded, but no weightage to be allowed.

(iv) The total number of seats allowed to be in strict proportion to the size of the community.

(v) A new Canarese-speaking Hindu province in Southern India to be created on cultural grounds.

As against these proposals, a decision of the British Government, as embodied in the Government of India Act 1935 was:—

(a) Sind detached from the Bombay Presidency, but without the fulfilment of the conditions laid down by the Nehru Committee as mentioned above.

(b) The North-West Frontier raised to a new Province, but communal electorates and weightage to remain.

(c) No Canarese-speaking Province carved out.

Sir Muhammad Shafi made two different proposals in the Minorities Sub-Committee of the Round Table Conference, in his two speeches on the 6th and 14th of January 1931. (Dr. Ambedkar's 'Pakistan' 1945 Edn. pp. 257 and 258). In his first offer he wanted joint electorates if accompanied by a statutory majority. If a statutory majority was refused, then a minority of seats with separate

electorates. The British Government gave both, a statutory majority and separate electorates.

158. These are gravely disquieting precedents. They show unmistakably that the British Government has, in the past, felt no compunction in discarding settlements based upon conditions by splitting up their terms and giving to one community more than what it had demanded or was entitled to and taking away from the other more than what was agreed to or what was fair. Political expediency and not equity has throughout dominated policy. Each offered concession is taken for granted and becomes the starting point of fresh demands. The lessons of the past should seem to enjoin caution in making further concesisons of a far-reaching character. We are, however, not deterred from making our recommendation about parity, because we feel that separate electorates ought to be abolished and that, so long as they remain, there is bound to be a perpetual cleavage between the two communities with all its attendant evils making impossible in future progress towards the true type of democracy.

159. We wish, however, to make clear beyond preadventure, that our Recommendation No. 9(e)(i) was arrived at after a great deal of hesitation and that the conditions and limitations attached are, in the opinion of the Committee, as fundamental as the recommendation itself. It is as well that we draw attention here to these conditions and limitations. The concession of parity is intended only for the Lower House of the proposed bicameral Union Legislature and is justified by the consideration that that House and the Union Executive responsible to it are ultimately the final organs to determine all-India policy. It is essential that such policy should have the substantial backing of the people of India and consequently of the Hindus and the Muslims, who form the bulk of the population. The same considerations do not apply to the provincial legislatures or executives or to the services or to other fields of administration. The concession, therefore, does not apply to them. So long as the constitution and the faundamental guarantees contained in it (with which we shall deal in detail in a separate chapter) for the protection of minorities can be maintained honestly and scrupulously to the satisfaction of the people, there is no reason why normal democratic methods should not prevail in the provinces. We would also point out that the principle of parity would be wholly inapplicable to provinces like Madras, Central Provinces, Orissa, Bihar, United Provinces and Bombay, where the Muslim population is extremely small. It is further necessary to realise that the concession will be applicable only to British Indian representation in the House, and only to that

portion of British Indian strength which is arrived at after deducting from the total the number allotted to special interests such as Commerce and Industry, land-holders, labour and women. The most vital of the conditions, however, is that the election of the Muslim strength in the House should be through joint (i.e., general) electorate with reservation of seats. We are aware that general electorates with reservation of seats are still a far cry from democracy, but we do not agree that they are as bad as separate communal electorates. In the present state of communal feeling in the country, we regard them as a necessary half-way house between the latter and general electorates without any limitations even as to candidature. The imperative need of the moment is the substitution, for the present system, of one which will hasten the evolution of the idea of a common citizenship, which in elections of this nature will at all times place loyalty to country above loyalty to community. Short of unfettered freedom in this respect—which in this unhappy land is not immediately attainable—the exercise by every citizen of the right to participate in the choice of every representative—even if this representative has by statute to belong to a particular community—is bound to help greatly in the gradual disappearance of narrow communalism and the promotion of healthy nationalism.

160. It will be altogether unjust and improper, in our opinion, to extend the concession of parity to the services, civil or military. Government services, like any other services, must be based on individual fitness for individual jobs. Howsoever educationally backward the Muslims may have been at one time, say 30 or 40 years ago, we think that the development of education among them in the various provinces has brought them very nearly to the level of the Hindus in regard to educational efficiency and intellectual equipment. It is not now a rare thing to find Muslim students holding their own against Hindu students and we feel that intellectually there is not much appreciable difference between the two. It must also be understood that the effect of a public servant's conduct is not confined to the members of his community. An inefficient or dishonest public servant is as much a source of danger to other communities as to his own. Even assuming that backward communities have to be given due representation in public services in view of the political and social consequences that flow from it, no community can claim the right to a larger representation than is warranted by its numerical strength. Weightage in legislatures has some justification, because in the making of laws, the voice of the weak may have to be strengthened in order to be heard.

In the case of public services, however, a demand for weightage, based purely on communal considerations, is nothing less than a demand for a monetary tribute from the rest of the people. The Committee, therefore, are unable to recommend the principle of parity in regard to the services. The Committee are particularly anxious about the judicial branch of the services. As matters stand at present, no person is appointed to any position in the judicial service, unless he possesses legal and professional qualifications prescribed by the Government. It is inconceivable to us that persons not possessing the necessary educational or other qualifications can be appointed in preference to those who do possess such qualifications. Nor must it be forgotten that the supply of suitable Muslim candidates for judicial appointments in provinces where the Muslims are in a substantial minority must necessarily be smaller. Further, we desire to point out that in the legal profession the Muslims are not in need of any adventitious help, for in the High Courts, especially in Northern India, Muslims have held their own against Hindus. The Muslim community has given to Indian High Courts some eminent judges, whose names are held in veneration by Muslims and Hindus alike. They rose to their height by dint of their ability and character. We think that any adventitious or fictitious aid in the matter of services must, in the long run, cause demoralisation.

161. In this connection, we would draw attention to our Recommendation No. 15. We have therein stated that the orders, now in force at the Centre regarding the representation of communities in the Public Services, may continue in operation till the Union Government under the new constitution comes into being. We have also recommended that the 8-1/3 per cent of the seats now allotted to the Sikhs, the Indian Christians and Parsees may be split up between these Communities in the proportion of 3-1/2 per cent for Sikhs, 3 per cent for Indian Christians and 1-5/6 per cent for Anglo-Indians and Parsis, and that the special provisions relating to Anglo-Indians in certain services under Section 242 of the Government of India Act, 1935, are not to be affected by this recommendation.

162. We think on the whole that the arrangements embodied in these Government resolutions are fair. There is, however, nothing to prevent the future Governments at the Centre or in the Provinces from revising these arrangements to secure the proper representation of the various communities in the respective services. It would not be fair to the future Governments to tie down their hands in advance. We should like them to have the utmost possible freedom to come to their own decisions in a matter of this character and we have every

confidence that the minorities which, under our scheme, will be effectively and adequately represented in the Legislature and the Executive, will be sufficiently strong to influence the decisions of the Government so as to secure fair and adequate representation of qualified persons in the services. We realise the value and importance of a fair and adequate representation of the different communities in the services of the country, not only on economic and social but also on political grounds. We do not wish to interpose any kind of factitious bar in the way of any community. Indeed, we think that it would clearly be the duty of the Governments of the future to take adequate and proper steps to raise the educational level of the Schduled and the Backward Classes, so that they may have their fair and due share of representation in the Services, but we are very strongly opposed to sacrificing considerations of efficiency for the sake of communal representation in the services. The success or failure of the future governments will largely depend upon the instruments they employ for the execution of their policies. But failure is certain if these instruments were lacking in necessary equipment or were influenced by communal considerations in the discharge of their duties. We are aware that there is a tendency at present to favour recruitment on grounds of caste or creed, but we are sustained in the hope that the Governments of the future will be able to counteract this tendency aided by the fact that the future Legislatures will contain the representatives of all interests. Public Service Commissions, rightly constituted and worked, may furnish an effective remedy.

163. We do not go into the question whether recruitment in the future should be entirely by competitive examinations or partly by nomination. That is a question which should be left to the future Governments, who will have a proper appreciation of the needs and requirements of the various elements committed to their charge. As regards the Public Services Commission, it will be noticed that we have taken care to recommend that the Chairman and Members of the Unit and Union Public Services Commissions should be appointed by the Head of the State and that of the Unit respectively in consultation with the Prime Minister concerned. We have deliberately made this recommendation so as to secure, as far as is practicable on the one hand the freedom of these Commissions from undesirable party or political influence, and, on the other, the avoidance of encroachment on the right of the head of a responsible executive to be consulted on appointments of this importance. We trust that this arrangement will work smoothly and satisfactorily.

164. Similarly, we hold very strongly that it would be extremely dangerous to apply this concession of parity to Military Services and we sincerely hope and trust that, so far as the defence and security of India are concerned, they will not be allowed to be influenced or affected by any communal considerations. We desire to express our obligation to H.E. the Commander-in-Chief, who was, at our request, kind enough to furnish us with a statement about defence services, which explains itself. It is given on page 125. How the recruitment should take place in future is a matter which should be left to expert advice and, in our opinion, it would be extremely dangerous for us to dogmatise about it.

165. The Army is a very delicate machinery and we hope and trust that the lessons of the present war will not be lost. The Pacific Ocean has now attained great importance, because the States bordering on it, like the U.S.A., U.S.S.R., China and the three British Dominions, have played a vital part in the war which has just ended and will continue to do so in the future. After Japan came into the war that has just ended, a revolution has occurred in the habitual ideas regarding Indian defence. The development of the air-arm has raised issues of a most momentous character. In our opinion, therefore, it would be disastrous if, with these new problems confronting the country, the efficiency of its defences was sacrificed at the altar of communal representation. The army should not be allowed to be infected with communal feeling. Nor should the communal composition of the frontier provinces be unduly exaggerated. The entire country is interested in its security and, consequently, its defence must be treated as a whole. Our views, however, should not be interpreted as implying that we want to keep out any section of the community from its proper representation in the army. On the contrary, we are anxious that all the communities must be represented, provided the recruits of the various communities satisfy those standards of efficiency which may be prescribed by military experts, not in the interest of any particular community but in the interest of the country as a whole.

STATEMENT SHOWING THE PERCENTAGES OF THE DIFFERENT COMMUNITIES AMONGST INDIAN PERSONNEL OF THE INDIAN ARMY, THE ROYAL INDIAN NAVY AND THE ROYAL INDIAN AIR FORCE, NOW AND BEFORE THE WAR.

COMMUNITY	INDIAN ARMY				ROYAL INDIAN NAVY				ROYAL INDIAN AIR FORCE			
	Officers.		Other Ranks.		Officers.		Ratings.		Officers.		Airmen.	
	1-1-40	1-9-44	1-1-40	1-9-44	1-9-39	1-3-45	† 1-5-43	1-3-45	3-9-39	1-1-45	3-9-39	1-1-45
Hindu ..	No figures are maintained showing the composition by communities of Commissioned Officers.		36	47	47·3	32·1	29·4	35·8	41·6	47·6	38·3	59·5
Muslim			36	32	22·8	18·3	48·2	42·7	16·7	16·6	29·5	17·0
Sikh			15	7	3·5	3·6	0·7	1·1	16·7	11·7	27·5	4·2
Indian Christian			1	5	8·8	16·5	} 20·8	16·4	16·7	..	4·0	18·4
Anglo-Indian ..			..	..	12·3	17·7	..	1·3	..	.. } 24·1	..	..
Parsee			..	..	5·3	9·7	0·4	0·3	8·3	..	0·7	0·8
Jew			..	..	..	0·9	..	0·1	..	..	..	0·06
Anglo-Burmese ..			..	..	..	} 1·2	} 0·5	} 0·3	..	..	..	..
Others			*12	9$	..	..	..	..	..	..	..	0·04
			100	100	100·0	100·0	100·0	100·0	100·0	100·0	100·0	100·0

‡ By far the majority of the remaining 24·1 % officers other than Hindus, Muslims and Sikhs are Indian Christians
* Almost entirely Gurkhas.
$ 7% consist of Gurkhas.
† Statistics showing the composition of R.I.N. Ratings were not maintained before 1-5-1943.

CHAPTER IV

PAKISTAN OR PARTITION OF INDIA

166. A large number of books have been published on the subject of Pakistan. It is, therefore, unnecessary to burden this chapter with the history of the various schemes which preceded the passing of the famous Lahore resolution of 1940, in which the partition of India into two sovereign and independent States was demanded for the first time by the Muslim League. We propose first to state the latest explanation available of the meaning of Pakistan as given by Mr. Jinnah, to examine some of the theories on which it is based and then to see how far the scheme affords a real solution of Hindu-Muslim differences. We shall then discuss the variants of this scheme suggested by Mr. C. Rajagopalachariar and by Gandhiji in the course of the latter's discussions with Mr. Jinnah in September 1944. Prof. Sir Reginald Coupland's scheme of Regionalism will also be briefly analysed.

Basis of Pakistan and its meaning.

167. Mr. Jinnah has stated that the principles of Pakistan and its basis are contained in the Lahore Resolution* with which Pakistan is now synonymous. Its basis is that the Hindus and Muslims form two major nations, the Muslims being a nation of a hundred million "with their own distinctive culture and civilization, language and literature, art and architecture, names and nomenclature, sense of value and proportion, legal laws and moral codes, customs and calendar, history and traditions, aptitudes and ambitions, with their own distinctive outlook on life and of life ;"

(2) the Muslim League as the sole representative of the Muslim nation rejects the scheme of Federation as embodied in the Government of India Act, 1935 and demands the establishment of an independent sovereign State composed, as they now stand, of the five provinces of the N.W.F., Sind, the Punjab, Baluchistan in the North-West and Bengal and Assam in the North-East (Jinnah-Gandhi Talks, p. 75) ;

* See Appendix IV.

(3) the sovereign State of Hindustan will consist of the remaining six provinces of United Provinces, Bihar, Bombay, Madras, C.P. and Berar and Orissa. The form of Government will be a really 'democratic popular government and will function with the will and sanction of the entire body of the people in Pakistan, irrespective of caste, creed or colour.' ('Jinnah-Gandhi Talks,' p. 79.);

(4) for the minorities in Pakistan adequate, effective and mandatory safeguards will be provided for the 'protection of their religious, cultural, economic, political, administrative and other rights and interests in consultation with them on a reciprocal basis with Hindustan';

(5) that the establishment of these two completely independent States is the only solution of the constitutional problems of India and will alone bring freedom to Muslims and Hindus and 'other elements in the country too.' ('Jinnah-Gandhi Talks,' p. 81;

(6) the scheme of Pakistan only applies to British India and not to Indian States (Jinnah-Gandhi Talks, p. 23).

Mr. Jinnah has made it perfectly plain that by an independent sovereign State he means a State which will have its own army, its own foreign policy, its own customs and railways, in short, all the recognised attributes of an independent sovereign State.

168. Before the practicability of the scheme can be decided, it is necessary to have a clear picture of the distribution of the Hindu, Muslim and Sikh populations in the 11 provinces into which British India is at present divided.

DISTRIBUTION OF PRINCIPAL COMMUNITIES IN BRITISH INDIA, 1941.
(All Figures are given in thousands)

Province or State	Hindus other than Scheduled Castes	Scheduled Castes	Muslims	Christians	Sikhs	Total population
Punjab	6,302	1,249	16,217	505	3,757	28,419
N. W. F. P.	180	......	2,789	11	58	3,038
Sind	1,038	192	3,208	20	31	4,535
U. P.	34,095	11,717	8,416	160	232	55,021
Bihar	22,174	4,340	4,716	35	13	36,340
Orissa	5,595	1,238	146	28	0·2	8,729
Bengal	17,680	7,379	33,005	166	16	60,307
Assam	3,537	676	3,442	41	3	10,205
C. P.	9,881	3,051	784	59	15	16,814
Bombay	14,700	1,855	1,920	375	8	20,850
Madras	34,731	8,068	3,896	2,047	0·4	49,342
Total British India ...	150,890	39,921	79,399	3,482	4,165	295,809

169. The Hindu and Muslim populations are so intermingled that, except in parts of the Punjab and Bengal, segregation of the two communities by territorial redistribution is impossible. On the other hand in the Punjab and Bengal, there are large areas of com-

pact territory inhabited by a majority of non-Muslims. In the Punjab, which is divided into 28 Districts, while the Muslims are in a majority in 17 districts, the non-Muslims outnumber them in 11. (see 'Hindu Memorandum,' p. 14, appendix 6). In Bengal, out of 28 districts, into which the province is divided, in 12 districts the Hindus are in a majority. To put it broadly, Eastern Punjab and Western Bengal, including Calcutta, are predominantly non-Muslim areas.

170. In any scheme of partition, the unique position of the Sikhs cannot be ignored, as will be clear from the discussion in a subsequent paragraph. Under Mr. Jinnah's scheme of partition there will be about 44 million non-Muslims including about 4 million Sikhs in Pakistan as against about 59 million Muslims, and in Hindustan about 20 million Muslims as against about 151½ million Hindus including the Scheduled Cases. These figures show that Pakistan will not achieve a segregation of the Hindus and Muslims. The two Muslim and Hindu States, after separation, will continue to have a large Hindu and Muslim population respectively.

171. We now propose to examine the theoretical grounds on which partition is demanded. The first contention is that the Hindus and Muslims form two major and separate nations with their own distinctive culture and civilization. The two nations theory has been fully dealt with in Chapter 3 of our Report, where we have shown that the things which unite the Hindus and Muslims are permanent and abiding; that those which divide them have been greatly exaggerated under skilful propaganda. The verdict of history is against the contention that the Hindus and Muslims cannot live together in peace and amity under one Government, because of irreconcilable antagonisms.

172. It is therefore necessary to enquire why the two nations theory has been pressed with such assurance and persistence. It is significant that the theory assumed political importance only after the provinces had become autonomous and Congress governments installed in eight out of the eleven provinces of British India. The theory was propounded from the League platform for the first time in October 1938, that is, a little over a year after the coming into power of the Congress governments. It has a very clearly defined political object. Its protagonists believe that once it is conceded that the Muslims are a separate nation, the following consequences must logically follow. The Muslims will have the right of self-determination, in other words, a right to secede and form a sovereign nation state in their homeland. Before dealing with the question of self-determination and homelands, we wish to apply some of the objective tests of

nationality to the two provinces of the Punjab and Bengal, which are to form part of Pakistan. If the test of language is applied, Punjabi is the common language of both Hindus and Muslims in the Punjab and Bengali in Bengal. As over 80% of the people are illiterate, divergences in the written and literary language do not affect the conclusion that Hindus and Muslims cannot be classed as separate nations on the basis of language. Now as regards the criterion of race, it is well-known that in Bengal there is no ethnological distinction between the Hindus and the Muslims, as the Muslims are largely converts from Hinduism. In the Punjab also, the classes which supply most of the recruits to the army and are prominent in politics have a common origin. For example, the Jats are divided into Muslim, Hindu and Sikh Jats. The Rajputs are divided into Hindu and Muslim Rajputs. A Musilm of the Punjab is more akin to the Hindu of the Punjab than to the Muslim of Bengal. No rational claim for separate nationhood can be based on the ground that the Muslims of the Punjab and of Bengal are of a different race from the Hindus of these two provinces. If emphasis is laid on the differences in culture between the two communities, it is well to remember that the vast bulk of the population is illiterate and agriculturists living on the margin of subsistence are too occupied with the problem of earning their livelihood, to have any leisure for developing different cultures. The common problem which faces the majority of both Hindu and Muslim agriculturists is economic development. Therefore, neither language nor race nor culture can be regarded as a safe criterion. Can religion alone then be the basis for dividing Hindus and Muslims into two separate nations? This novel theory pushed to its logical conclusion would justify the Indian Christians, Jains and Parsis in claiming that they are a separate nation and entitled to form separate states of their own. But, perhaps the intention is not to make religion the only factor. Numbers and geographical distribution are also to be taken into account. If that is so, will the Hindu and Muslim subjects of a nation state, say the Punjab, change their sovereignty as often as the one or the other religion is in a numerical majority. The implications of this theory will be clear when we come to discuss the question of a homeland in the Punjab. Nor need we do more than point out the dangers of defining nationality on the basis of a proselytizing religion, where the numerical strength of the two religions is more or less evenly balanced.

173. How is it being applied by the separatists in India. It is first claimed that the Muslims are a nation. They must have a homeland. Where are these home-lands? In those zones where they are

in a majority. What are these zones? A conglomeration of British Provinces, whose boundaries were fixd arbitrarily for administrative reasons and without reference to the claims of language, race, history or religion; with mixed populations of the nature we have already described, with clearly defined strips of territory in the major provinces of Bengal and the Punjab, in which the non-Muslims are in a majority. How are these zones to be secured and what is to happen to the non-Muslim majority areas within these zones? The answer is that this will be done not by ascertaining the common will, but only the will of a political organization, the Muslim League, which is supposed to represent the wishes of the dominant nation of the zone; or at best through a plebiscite confined to this nation exclusively. To put it in plain language, in the sacred name of self-determination, whole provinces with a population numbering nearly 45 millions of non-Muslims are to be transferred from an existing sovereignty to a new one as if they were mere chattels. A gigantic partition, changing the destiny of nearly 300 million people, is to be carried out not as a result of agreement among all the communities affected but under the threats of a purely communal organization. What will be the immediate political consequences of these changes? The Hindus, who form about 75% of the population of India, are to be split into a national minority and to be placed under the sovereignty of the Muslim State of Pakistan, the majority remaining in Hindustan. The frontiers of the two States will lie in such a way that there will be a large Hindu national minority in East Punjab and in West Bengal both bordering on the State of Hindustan. The History of Europe warns us of the grave problems created by national frontier minorities; while, on the one hand there will be an irresistible desire on the part of Hindus living in East Punjab and West Bengal to rejoin their nationals in Hindustan, there will be an equal urge on the part of the Government of Pakistan to suppress this irredentism in ways so familiar by transfers of population from the borders to the interior and by stern repression of recalcitrant minorities and their national movements against the State by employing all the instruments of coercion which modern statecraft has brought to such perfection. Seeds will thus have been sown of the two nations warring within the bosom of each of the two States of Pakistan and Hindustan. That this is not a fancy picture will be clear from the views which have been placed before this Committee by the virile communities of the Punjab, notably the Sikhs. It is admitted on all hands that the Punjab occupies a key position in Pakistan.

But, even if it be assumed, for the sake of argument, that the lessons of the past justify a contrary conclusion, then, the only solution is such a realignment of frontiers as would segregate the two nations completely. Far from achieving this, the proposed division of India leaves the two nations still facing each other in large numbers in the separated States. If they are unable to live together in a united India, their animosities far from subsiding will be greatly inflamed in a divided India. Doubts have, therefore, naturally arisen in many unbiased minds whether the emphasis on this two-nations theory is not a bargaining device for securing more concessions. It is argued that if the Muslims were to accept the position, which they had done right up to 1939, that they were a minority, they could not with any prospect of success claim to be treated on a par with the non-Muslims who form 75% of the population. But if they were to assert that they are an equal and separate nation of a hundred millions, their claim to parity with the non-Muslims could be advanced boldly with every prospect of success. Such a claim has actually been put forward by the Muslim League since the breakdown of the Simla Conference in July 1945!

174. The protagonists of the two nation theory, however, deliberately ignore the effect of its application to the Indian States. In the premier State of Hyderabad with a population of nearly 16¼ millions, the Muslims are only 12.8%. In Kashmir, on the other hand, the non-Muslim percentage is 23.6. The Ruler of Hyderabad is a Muslim and of Kashmir a Hindu. How will the two nation theory be applied to these large States and what happens to the right of self-determination? These examples are enough to show the dangers of propounding explosive political theories without reference to the circumstances of the country. The conclusion to which we are driven is that the two nation theory by itself cannot be a justification for the division of India, nor does it in any way solve the communal problem.

175. Before dealing with the theory of self-determination, we propose first to examine the claim that the home-land of the Muslims is in the areas in the north-west and in the north-east, where they are in a majority. It has been admitted publicly that the Punjab is the corner-stone of Pakistan. The population figures are the chief basis for regarding it as the home-land of the Muslims. It will be necessary to scrutinise these figures in order to test the validity of this claim. The following table gives the population percentages by decades according to the census figures:—

Community	*1881*	*1891*	*1901*	*1911*	*1921*	*1931*	*1941*
Muslims	47.53	47.39	49.61	51.07	51.05	52.40	53.22
Hindus	43.84	44.08	41.27	35.79	35.06	30.38	29.11
Sikhs	8.22	8.09	8.63	12.11	12.38	14.29	14.92

Between the years 1881 and 1901, the Muslims in the Punjab were in a minority. It is only after the census enumeration of 1911 that they appear in a small numerical majority. It seems unnecessary to emphasise that in a province where the population is so evenly balanced, a slight numerical superiority for a few years or decades one way or the other cannot be made the foundation of a claim involving the transfer of the allegiance of millions of people from one independent State to another. This is more so when it is universally recognised how difficult it is to obtain correct statistics in a country like India, where nearly 90% of the population is illiterate and the seclusion of women in certain areas makes it difficult to secure accurate enumeration. If a census can be made to decide the fate of millions and the disruption of States, it is no matter for wonder that the whole energy of communities comes to be concentrated on the manipulation of population figures. This is exactly what happened during the last two censuses, as will appear from the following extracts:—

> "Another factor came into play on the present occasion and deprived the census operations of the calm atmosphere which is essential to the obtaining of correct returns. The new constitution for India was to be framed at no distant date and the value attached to the communal figures brought out by the Census was greater than ever. Consequently the atmosphere was surcharged with propaganda carried on through various agencies and attempts were made in some places by the enumerators to swell the figures of their community by means of bogus entries or to curtail the strength of the rival community by scoring out persons who were actually present on the final census night. There were also some cases in which residents of houses returned bogus entries with the same motive".
>
> —(K. S. Ahmed Hassan Khan, Superintendent of the Census Operations, Punjab, 1931, at p. 79 of the Report).

The Hindu figures of 1931 were affected by the boycott of the census by the Congress. The census figures of 1941 were notoriously affected by political motives. The census was taken in March 1941; the Muslim League had already proclaimed the enormous importance of a numerical majority by its Lahore resolution of March 23, 1940. The Census Commissioner for India of 1941, Mr. Yeatts, writes as follows in his Report :—

"1940-41 saw also political influences on the census but in the opposite direction; since whereas the difficulty in 1931 had been to defeat a boycott, the difficulty in 1941 was to defeat an excess of zeal ....In fact, we have in the Punjab and Eastern Bengal two swarming areas ....It was inevitable that sooner or later an exaggerated and pathological interest would come to attend on the production of the figures which a communal segregation expresses. And when you have a pathological interest in the production of figures, you have introduced into them a weakness which will remove all value unless suitable remedy is applied.........If the circumstances of today continue, and if a community record is desired and if the general attitude of the citizens has not developed towards a deeper understanding of their own role then it is doubtful whether ten years hence it will be possible..........to take a community record at all".

("Punjab the Homeland of the Sikhs" by Harnam Singh; p. 42).

The variation percentage in the total population of the Punjab during the decennial periods beginning from 1901 gives point to the Census Commissioner's observations:

Period	variation percentage
1901-11	1.8
1911-21	5.6
1921-31	13.9
1931-41	20.5

(Appendix 6, "Hindu Memorandum" p. 9).

To base claims for a homeland, separation and independent sovereignty on figures so notoriously unrealiable, shows the dangerous lengths to which terms like "homeland" and self-determination" con be stretched under the stress of present political conditions.

176. The Hindus claim the Punjab to be as much their homeland as of the Muslims. The Hindus have been there since the dawn of history. As for the Sikhs, if any community can lay special claim to the Punjab as its homeland it is they. They were the last Rulers of the Punjab and their most important shrines stretch from Sirhind on the one side to Panja Saheb on the other, with the Golden Temple at Amritsar in the centre of the province. It is not only the Homeland but the holy land of the Sikhs, to which they are attached by all the intimate bonds of religion, history and tradition. The Sikhs number a little less than 6 millions. About 5 millions are settled in the Punjab, where lie all the Sikh States. To class certain Provinces as the special homeland of the Muslims and others as the homeland of the Hindus is a complete travesty of facts and a dangerous perver-

sion of history to serve political ends. All that can be said is that the Muslims are concentrated in large numbers and form the majority of the population in certain areas in the North-West and North-East, while elsewhere they form minorities, where their percentage to the total population varies from 1.68 in Orissa to 15.30 in the United Provinces. In the whole of British India the Muslim percentage is 26.82. On such a slender basis rests the theory of homeland.

177. We shall now deal with the theory of self-determination, which, under the intense pressure of communal rivalries, has taken a startling shape in India. Its illustrious champion, the late President Woodrow Wilson, laid down the conditions of its application in a famous passage, in his speech before the Congress on February 11, 1918. After declaring that :—

> "Self-determination is not a mere phrase. It is an imperative principle of action which statesmen will henceforth ignore at their peril," he laid down the following 'four principles' as essential to permanent peace :
>
> (1) "Each part of the final settlement must be based on the essential justice of that particular case.
>
> (2) Peoples and provinces are not to be bartered about from sovereignty to sovereignty, as if they were mere chattels and pawns in a game, even the great game, now for ever discredited, of the balance of Power.
>
> (3) Every territorial settlement involved in this war must be made in the interest and for the benefit of the populations concerned, and not as a part of any mere adjustment or compromise of claims among rival elements.
>
> (4) All well-defined national elements shall be accorded the utmost satisfaction that can be accorded them without introducing new or perpetrating old elements of discord and antagonism."

178. It may be useful however to record very briefly its implications when applied to Europe before examining its applicability to the complex map of modern India. The greatest difficulty was encountered in applying President Wilson's principles to the quilt pattern map of Europe. It was not just a question of writing on a clean sheet of paper. Nationality was found to be an indeterminate criterion and gave little assistance in deciding actual frontiers. It was also found difficult in practice to discover a valid definition of the conditions a nation should satisfy before it could legitimately claim a right of self-determination ; nor did language prove a safe guide.

In the end, the principle of self-determination had to be confined, in its application, to those peoples who had been included in the territories of the defeated empires. But even so, in creating new States it was found impossible to avoid creating new minorities. The history of subsequent years showed that the application of the principle of self-determination did not succeed in producing a stable international order. The true sentiments of the statesmen who assembled in Paris at the Peace Conference in 1919 were different from those of Wilson. According to Lloyd George, in the course of discussions, Clemenceau, the famous Prime Minister of France, told him "that he did not believe in the principle of self-determination, which allowed a man to clutch at your throat the first time it was convenient to him." There were differences of opinion even in the American Delegation on the question of self-determination. Wilson's Secretary of State, Robert Lansing, writing about the principle of self-determination at a later date, described the phrase as "loaded with dynamite" and said that if the principle of self-determination had been accepted there would have been no United States of America or the Dominion of Canada, as the Southern States of America and French Canada would have formed independent States. The post-war territorial settlement showed clearly that the principle of self-determination could not be applied in fact. It was misused to an incredible degree to serve political interest and aims. We know how this principle was misapplied by Germany. The first article in the programme of the National Socialist Party was "the unification of all Germans to form a greater Germany on the basis of the right of self-determination enjoyed by nations." The right of self-determination became a term of the most sinister German propaganda and was fully exploited to demand self-determination for the Sudetan Germans. The principle of self-determination was thus turned into a weapon of war. Much has been written in recent years about the way Russia has used the principle of self-determination in dealing with its various nationalities. Competent observers have drawn the following conclusions in regard to the application of the principle of self-determination in Russia : (1) The right of self-determination and any measure of national cultural autonomy have invariably been subordinated to the economic policy and the military security of the Union. Control of military and economic policy, of foreign trade and of general foreign relations has been kept firmly in the hands of the Central authority. (2) While cultural activities and languages of the minority nationalities have received every encouragement, the right of self-determination, if it means a right of secession, is a formula

devoid of meaning. Any attempt at secession would be regarded as counter-revolutionary and promptly liquidated. The Russions have, however, learnt the lesson that one of the genuine causes of the demand for self-determination is the economic inequality of nations inside a single political system. They have, therefore, undertaken with great energy and success the economic development of the undeveloped areas of the U.S.S.R. and the exploitation of unused raw materials.

179. The experience of Europe shows that self-determination is not an absolute right and can only be applied with due regard to circumstances. We propose to close our necessarily brief and rapid survey of how the great European powers have dealt with the theory of self-determination by a reference to the British Commonwealth. Indian politicians have begun to argue that when the British Government have promised India the right to secede from the British Empire, if it so desires, how can this right be denied to the Muslims of Pakistan ? Imperfect analogies are always dangerous. In the first place, the right of India to secede is hedged in with a multitude of conditions which might never materialise.

In the second place, what is desired is the breaking up of the unity of India which nearly two centuries of British rule have brought about. Suppose it were argued that, as the British Government have given India the right to secede, they should allow Scotland and Wales to form separate foreign States ; that the Union Government of South Africa should under the doctrine of self-determination allow the Afrikaners to secede and break up the Union; that the Dominion Government of Canada should undo the pact and split the Dominion into two separate nation States, British Canada and French Canada. Will not these proposals be condemned as outrageous ? The analogy of Ireland, where the right of self-determination was pushed to its logical conclusion, is more a warning than an example to follow. It was only in Ireland that the United Kingdom had to face a problem of nationality "comparable with the problem of Central Europe and the Balkans and that there it failed as completely as another State could have failed." The partition of Ireland has left its major problems including the strategic unsolved. Moreover those who rely on the Irish anology should remember that the six Northern Counties cannot exist separately without the help of the British army.

180. It is well to recognise that secession is a breaking down of established connections, which may lead to internal anarchy or foreign domination. The right of self-determination must, therefore,

be judged in regard to its practical application in a given case and not as an abstract right overriding considerations of history, geography, defence and economic interest.*

> The position of the Sikhs *vis-a-vis* the Muslim League demand for Pakistan is well known. "They are irrevocably opposed to any partition of India on a communal basis. Their opposition is based on considerations which are also well known : some of them being that the demand is unnatural, reactionary, and is in opposition to the best political and economic interests of the country as a whole as well as of the portions and regions sought to be partitioned off ; that it militates against the lessons of history and requirements of geography and that it signs the death warrant of the future of the Sikh community as a whole. That the spurious grounds which are being advanced for justification of this claim are in themselves untenable is apparent from the observations that have already been made. We may briefly add that Pakistan offers no solution of the communal tangle which is bound to be aggravated in divided India. The claim proceeds on the assumption that the Punjab is a homeland of the Muslims which is a wholly untenable claim. The demand for Pakistan does not take any account of the existence of the Sikh States of Patiala, Jind, Nabha, Kapurthala, Faridkot and Kalsia, which are predominantly non-Muslim in population. They are surrounded on all sides by the districts of the British Punjab. Needless to mention that the States have an inseparable connection with the Sikhs in British Punjab."

The position of the Hindus of the Punjab has been very clearly set out in their memorandum which forms Appendix 6 of our Report. They argue with much cogency that, if the right of self-determination is conceded to the Muslims in the Punjab, there is no reason why the same principle should not be applied to the non-Muslim majority districts in the Punjab, which form a compact strip of territory, and why these areas should be forced against their will to separate themselves from Hindustan and be included in Pakistan. This, according to them, would be a preposterous arrangement. As regards Bengal the memories of its partition in 1905 have not altogether faded. That partition led to violent agitation and revolutionary crime and had consequently to be annulled in 1911. There is no reason to presume that Hindu sentiment in Bengal has undergone any change. Some of the members of the Committee, including

* We are indebted to Prof. Cobham's book "National Self-determination" for a good deal on the material dealing with the application of the doctrine of self-determination in Europe.

its President, visited Calcutta and, from their conversations with a number of leading men, they were convinced of the intensity of Hindu feeling against any partition of Bengal. These feelings were shared by a deputation of the Scheduled Castes who met the President and some members of the Committee and which included members of the Bengal Legislative Assembly and other influential leaders. It is clear from wrat we have stated above, that, so far as the Hindus and Sikhs are concerned, there can possibly be no agreement on the question of Pakistan as defined by Mr. Jinnah.

181. We now propose to discuss the formula which goes by the name of Mr. C. Rajagopalachariar, Ex-Premier of Madras, to which Mahatma Gandhi lent the support of his enormous influence in the country. The C. R. formula concedes the right of self-determination to the Muslims in North-Western and North-Eastern India but very logically also concedes the right of self-determination to the Hindus in those contiguous districts therein in which they are in a majority. We give below the text of the formula, which formed, for some days in September 1944, the basis of prolonged discussions between Mahatma Gandhi and Mr. Jinnah.

C. R. FORMULA.

182. Basis for terms of settlement between the Indian National Congress and the All-India Muslim League to which Gandhiji and Mr. Jinnah agree and which they will endeavour respectively to get the Congress and the League to approve:

(1) Subject to the terms set out below as regards the constitution for Free India, the Muslim League endorses the Indian demand for Independence and will co-operate with the Congress in the formation of a provisional interim government for the transitional period.

(2) After the termination of the war, a commission shall be appointed for demarcating contiguous districts in the north-west and east of India, wherein the Muslim population is in absolute majority. In the areas thus demarcated, a plebiscite of all the inhabitants held on the basis of adult suffrage or other practicable franchise shall ultimately decide the issue of separation from Hindustan. If the majority decide in favour of forming a sovereign State separate from Hindustan, such decision shall be given effect to, without prejudice to the right of districts on the border to choose to join either State.

(3) It will be open to all parties to advocate their points of view before the plebiscite is held.
(4) In the event of separation, mutual agreements shall be entered into for safeguarding defence, commerce and communications and for other essential purposes.
(5) Any transfer of population shall only be on an absolutely voluntary basis.
(6) These terms shall be binding only in case of transfer by Britain of full power and responsibility for the governance of India.

A number of letters were exchanged on the implications of the formula. It is not proposed to discuss all its items. We will confine our attention only to one point, viz., what areas would have gone to Pakistan under this formula. In the course of the discussions, it was urged by Gandhiji that the Lahore Resolution was idefinite and that the C. R. formula gave its substance and shape. Mr. Jinnah, while denying the charge of indefiniteness, characterised the C. R. formula as putting the Lahore Resolution out of shape and mutilating it. He maintained this attitude throughout the long discussions which preceded the breakdown of the negotiations. In his last letter to Gandhiji dated Saturday 26th September he described the C. R. formula as calculated completely to torpedo the Pakistan demand of Muslim India. We do not propose to enter into the controversy whether the C. R. formula contains in clear terms the substance of the Lahore Resolution or not. But we should like to point out that so astute and well informed a Muslim publicist as Dr. Sayyid Abdul Latif of Hyderabad has interpreted the Lahore Resolution as follows as late as December 1, 1943.

"Under the principle of the Lahore Resolution, you will have for your Pakistan States only those areas where the Muslims are in real or predominant majority. You will thus have to forego in the N.W. nearly a half of the Punjab—the Ambala division and the Kangra Valley, and confine yourself to the west of Lahore. In the North-East, you cannot claim much beyond the Eastern Bengal and the Sylhet District of Assam. If you wish to carve out for any reason larger states........the only alternative for you is to obtain the consent of the non-Muslims to promote your purpose............ They will be composite States and not Pakistan and will have naturally to be governed by composite governments...........Composite States will be miniature Indias, confronting you with the same age-long communal problems which, under the altered or new conditions,

will call for methods of solution other than those suggested by the Lahore Resolution."

(See Foreword dated December 1, 1943, to the "Pakistan Issue" edited by Nawab Dr. Nazir Yar Jung).

Dr. Abdul Latif's interpretation of the Lahore Resolution was, therefore, not different from that of Mr. Rajagopalachariar. The noteworthy fact, however, remains that the C. R. Formula has been rejected by the Muslim League. Under this formula the inhabitants of the contiguous non-Muslim majority districts of the Punjab and Bengal and 2/3rds of Assam would have remained outside Pakistan if, under a plebiscite, they had so desired. The C. R. formula envisaged a plebiscite in the contiguous Muslim majority districts of the two zones on the issue of separation. The reactions of the Hindus and Sikhs of the Punjab, and of the Hindus of Bengal to this formula will be clear from the following extracts:—

"The alternative scheme is that of Mr. Rajagopalachari which lays down that such districts in the North-West as are contiguous and have Muslim majority should be permitted to constitute a separate region, if they so desire. According to Rajaji's formula, the 17 districts in the North-West viz., Gujarat, Shahpur, Jhelum, Rawalpindi, Attock, Mianwali, Multan, Lyallpur, Jhang, Montgomery, Muzaffargarh, Dera Ghazi Khan, Lahore, Gurdaspur, Gujranwala, Sialkot and Sheikhpura will go with the Muslim majority areas of North-Western Frontier Province, Sind and Baluchistan and the remaining 12 districts will from part of Hindu India."

On this basis the population of the two demarcated areas of the Punjab according to the census of 1941 will be as follows :—

Total population	*Muslims*	*Hindus*	*Sikhs*
North-West Punjab.			
16,870,900	12,363,669	2,823,267	1,688 355
	73.3%	16.7%	10 %
South-East Punjab.			
11,547,919	3,858,593	5.620,800	2,073,546
	32.6%	49.9%	17.5%

From the above table it is evident that in the North-West region of the Punjab as against 73.3 per cent Muhammadans there will be 26.7 per cent non-Muslims, and in the South-East region there will be 32.6 per cent Muslims as against 67.4 per cent non-Muslims. Working on the basis of Rajaji's formula,

we find that in the North-West Muslim majority zone, consisting of Sind, Baluchistan, N.W.F.P. and the 17 districts of the Punjab, the population percentages of Muslims and non-Muslims will be as follows :—

Muslims	75.2%
non-Muslims	24.8%

"It is evident that the non-Muslims percentage of population in this area will approximately be the same as the population percentage of the Muslims in India as constituted at present. If the Muslims of India, as claimed by the Muslim League, are afraid to live in a united India with 66 per cent Hindu population, how can the Hindus of Pakistan be expected to agree to live in a 75 per cent Muslim majority zone? It is clear that the partition of India whether according to Rajaji's formula or according to Lahore resolution of the Muslim League does not afford any solution of the minority problem but rather aggravates the same."

* * * * *

"The working of the Government of India Act during the past seven years in the Province of Sind, N.W.F.P. and the Punjab has disclosed that it is only in the Punjab where the government has been stable. In Sind with 73 per cent Muslim population, three ministries, one after the other, tumbled down during the period of seven years and the fourth is so unstable that it is in the dangerous position of losing its centre of gravity at any time. Similarly in the N.W.F.P. with over 90 per cent Muslim population, the Ministry has never been stable. The stability of Punjab Ministry is to no small degree due to the fact that the Muslims and non-Muslims, both in the population and in the provincial legislature, are well balanced and no one community can think of running the government without co-operation of the others. This fact was admitted in the majority report of the Punjab Provincial Committee which was appointed in 1928 to co-operate with the Simon Commission. The Report said:

> "A large disparity between the communities in the present circumstances is undesirable in the interests of the province and good government."

As communities are at present balanced, there is not even a remote chance for any one community to form a cabinet on communal lines."

("Hindu Memorandum", Appendix 6)

The following extracts state the Sikh point of view:—

> "The C. R. formula is open to all the objections which have been raised by the Sikhs against Pakistan. As a matter of fact, this formula contemplates a worse fate for the Sikhs than the Pakistan demand; for, in the latter case, they can at least look forward with satisfaction to the probability of being persecuted, and dying together, while in the former case, a small compact community is divided into almost two equal parts, each going into two independent sovereign States."
>
> (See Sikh Leaders' Memorandum, Appendix 7)

The chief point made by the Sikhs both in their memorandum and in the oral discussions which they had with the Chairman and with some members of the Committee at Lahore, was that if the non-Muslim majority districts go out of Pakistan, the Sikhs would be split into two under two different States, Pakistan and Hindustan. The Sikhs have an insuperable objection to be placed under Pakistan and if such a solution was threatened, they would insist on the creation of a separate State which should include "the substantial majority of the Sikh population and their important sacred shrines and Gurudwaras with provision for the transfer and exchange of population and property."

183. As regards Bengal, the following districts in West Bengal, which are contiguous to each other and form a compact block would have the option of staying out of Pakistan, namely, Burdwan, Birbhun, Bankura, Midnapore, Hoogly, Howrah, 24 Parganas and Calcutta, in which the percentage of Hindus is 74. Even in East Bengal, Jalpaiguri, Darjeeling, Khulna and Chittagong hill tracts may separate, while the position of Dinajpur is doubtful as the Muslim majority is 57 per cent. It is unnecessary to discuss further the application of the C. R. formula to Bengal, because, under it, Calcutta would form part of Hindustan. There is not the slightest indication at present that the Muslim League is prepared to discuss a partition of Bengal in which Calcutta and the districts mentioned above could go out of Pakistan. Nor are the Hindus prepared to face another partition.

184. As regards Assam, it is clear that, under the terms of the C. R. formula, only Sylhet could form part of Pakistan, as in the rest of the area the population is largely non-Muslim.

Gandhiji's formula

185. This is a slight variant of the C. R. formula. The full text of the letter of Mahatma Gandhi dated the 24th of September 1944

to Mr. Jinnah and his reply of September 25 is given in Appendix No. 5.

186. A suggestion was made by Mahatma Gandhi, in the course of the discussion, that the matter should be referred to arbitration. This too was rejected by Mr. Jinnah. The position therefore, is that the scheme of Pakistan put forward by Mr. Jinnah is not acceptable either to the Hindus of the Punjab and Bengal or to the Sikhs or to the Congress or to the Hindu Mahasabha. The C. R. formula has been totally rejected by Mr. Jinnah and has been opposed by the Hindus and Sikhs of the Punjab and the Hindus of Bengal. It is thus clear that Pakistan, whether whole, according to Mr. Jinnah's ideas, or truncated according to the C. R. formula, cannot be established with the consent of parties and will meet with the strongest opposition. Arbitration has been ruled out and is out of place when the fate of the entire country is to be decided. The only alternatives for enforcing Pakistan are either a British enforcement of it or civil war. Can the British Government intervene in support of Pakistan with any justification? Lessons of the second world war and the trend of world events point to the consolidation and enlargement of States and not to the creation of a number of small States, which would inevitably have to seek the protection of one or other of the bigger States. Looked at even from the Muslim point of view, Pakistan would create two isolated Muslim areas separated from each other by a large tract of territory under Hindustan. Will such a State be able to stand on its own legs or will it demand a subvention from Hindustan? At present Sind and the N.W.F. Province receive annually between them over two crores of rupees from the Government of India. The demand is to raise Baluchistan to the status of a province. Will it not also require a subvention?

187. In the course of our proceedings we requested three of our members, Sir Homi Mody, Dr. John Matthai and Mr. N. R. Sarker, who are generally looked upon as distinguished economic and financial experts, to examine some of the more important economic and financial problems which would arise if India were divided into separate states as suggested by the advocates of Pakistan. Sir Homi Mody and Dr. John Matthai submitted a considered memorandum, which has been published as pamphlet No. 9. At the very commencement of their joint report they sum up their view in two propositions as follows:—

"1. Judged solely by the test of ability (a) to maintain existing standards of living and (b) to meet budgetary requirements on a pre-war basis but excluding provision for de-

fence, separation would appear to be workable on economic grounds.

"2. If, however, provision is to be made (a) for future economic development on a scale sufficient to raise the general standard of living to a reasonable level and (b) for measures of defence which may be considered adequate under modern conditions, any scheme of political separation which may be contemplated should, as a necessary pre-requisite, provide for means of effective and continuous co-operation between the separate states in matters affecting the safety of the country and its economic stability and development. If such co-operation did not exist, the position of both Pakistan and Hindustan might be seriously jeopardised."

At the end of their memorandum they sum up their general conclusion as follows:—

"From the point of view of defence and economic development, with which defence is closely bound up under modern conditions, it is, therefore, inevitable, if the division of India into separate states is found necessary for political reasons, that Pakistan and the rest of India should continue to act in close co-operation in these essential matters. What method of co-operation will in the long run be found feasible will necessarily depend on political considerations. **But it is clear that unless some effective and continuous form of co-operation in matters relating to defence and economic development is accepted as an indispensable pre-requisite to any scheme of separation and as an organic part of it, the division of India into separate sovereignties would spell stagnation and probable disaster."**

Mr. N. R. Sarker has submitted a separate note which is printed as Appendix 3. Mr. Sarker's conclusion is as follows:—

"Considering the economic and financial implications of Pakistan the conclusion is irresistible that Pakistan is not a practical proposition, either economically or financially. My colleagues have urged that Pakistan may work by establishing a system of close co-operation in economic, financial, defence and other important matters. I do not consider this to be practicable. If co-operation could have been possible after separation I see no reason why it should not be available in abundant measure within a united India. If feelings are strained to such a point that separation becomes unavoidable, the act of separation itself will create further ill feelings, making co-operation difficult and impossible."

Sir Homi Mody, after his joint Report with Dr. Matthai was presented to the Committee, clarified his views in the following terms:—

> "The provisional report submitted by Dr. Matthai and myself states that Pakistan is economically practicable, if problems of defence and economic development are not taken into consideration. My position as a member of the Constitution Subcommittee is that I would recommend a district-wise Pakistan if the Muslim League insists on a division, provided there is definite agreement on the setting up of a machinery which would ensure effective and continuous co-operation in respect of these vital matters. I would not recommend a division of India except on this fundamental basis."

It is evident to us that even according to Sir Homi Mody and Dr. John Matthai if a provision is to be made for future economic development on a scale sufficient to raise the general standard of living to a reasonable level and for measures of defence which may be considered adequate under modern conditions, it will be necessary to provide for means of effective and continuous co-operation between the separate states. The resources of Pakistan according to them may be sufficient to maintain existing standards of living and to meet budgetary requirements on a pre-war basis. It is, however, abundantly plain that neither Hindustan nor Pakistan can, in financial or economic matters, stand where they did before the war. The pre-war standards of living will have to be largely raised, requiring heavy expenditure. Already there are gigantic post-war reconstruction schemes in contemplation and it may be taken for granted that as a result of the experience of this war a much larger demand will be made upon the resources of Hindustan and Pakistan for effective measures of defence which may be considered adequate under modern conditions.

188. We now come to the vital question of defence. The most recent developments in aerial warfare have revolutionised strategy, but, in spite of this, the land frontiers of India on the N.W. and on the N.E. will have to be guarded and their safety will be essential to the defence of India as a whole. The two areas of Pakistan on the N.W. and N.E. will be separated by hundreds of miles of foreign territory belonging to Hindustan. How will they be connected together? Will it be necessary to have a long corridor? Who will ensure the safety of such a corridor if the two States of Hindustan and Pakistan are at war with each other? The financial survey to

which we have referred in the previous paragraph shows that Pakistan will be unable to bear the financial strain of the defence of those vitally important strategic frontiers. Foreign policy and Defence are intimately connected. If Pakistan is unable to maintain, by its own resources, adequate defence forces, it may be forced to enter into an alliance with other Powers. Is there any guarantee that it will always treat the State of Hindustan as its ally? What will be the position, if the armies of Pakistan in alliance with Powers on the West and North-West join in an invasion of Hindustan, for the separatists base their case on what according to them is the Cardinal fact that, after a 1000 years of living together, they are still unassimilated strangers in a united India. A treaty between Hindustan and Pakistan cannot, therefore, guarantee permanent peace and, even if there is such a treaty, who will be there to enforce its terms in case hostilities break out between Pakistan and Hindustan? What will in such a contingency be the position of the Indian States? How will the predominantly Muslim population of Kashmir and the predominantly Hindu population of Hyderabad behave towards their respective rulers of a foreign faith? Will Indian States be allowed during years of peace to enrol foreigners for their army? Is there not the greatest risk that the history of the 18th century will be repeated and India become the arena for the intrigues and struggles of foreign Powers? Where will then be a free Hindustan and a free Pakistan? It may be argued, that as for a long time to come, even an undivided India will be unable to defend itself against a first class Power and will need the protection of an outside Power, Pakistan and Hindustan can enter into an alliance with the same foreign Power to guard both against aggression from outside and prevention of war between themselves. It is essential that the alliance of the two States must be with the same Power, for otherwise there can be no guarantee that either Hindustan or Pakistan, with the help of its ally, may not wage war on the other. How is it to be secured that Pakistan and Hindustan will not seek different allies? A little further analysis will show that Pakistan can only exist, if its existence is guaranteed by Great Britain and that means a British army of occupation. Shorn of all theories of separate nationhood and the inherent right of self-determination, what is proposed is the disruption of India with British help. If Britain has to remain in India, how will it justify its breaking up of the unity of India which it has done so much to cement during the nearly two centuries of its unbroken rule, and the setting up of two States, which, divided, would be economically and militarily weak and in

which the minority problem would be even more acute than at present.

189. It is here that the ambiguous silence of the British Government and its refusal so far to take a definite stand on this issue makes progress in the solution of the problem wellnigh impossible. The geographical unity of India has been proclaimed. Its leaders have been exhorted to think of 'India first.' Is it not time that, after five years of silence, the British Government declared their policy in unequivocal terms? Will they enforce the partition of India and maintain it by force in the absence of an agreed settlement? Do they intend to create a larger Ulster? If they have no such sinister design, then the sooner their policy is made clear the better it will be for the peace of the country. The separatists have leaders of great astuteness. They, no doubt, hope that if His Majesty's Government continues to sit on the fence and allows the deadlock to continue, violent propaganda and open threats will so overawe or fatigue their opponents that in sheer weariness they will sue for peace. How else can one explain, except on the basis of well engineered political strategy, that Pakistan takes no account of the Indian States, which occupy nearly 1/4 of the area of the Indian sub-continent and have a population of over 90 millions? If the two nations theory and the theory of self-determination were to be applied in their full vigour, the Rulers of some of the biggest Indian States would be placed in great jeopardy. We have no desire to elaborate this point. If there is to be Pakistan, then its sponsors must give a clear picture of its relation to the Indian States. There is a similar lack of frankness and there are obvious mental reservations in connection with the position of minorities in Pakistan. Fair promises have been made but not clear indication given as to how they are to be kept.

190. The minorities in Pakistan are promised effective, adequate and mandatory safeguards. If such safeguards can be provided for nearly 44 millions of non-Muslims in Pakistan and nearly 20 millions of Muslims in Hindustan, why cannot adequate safeguards be provided for all the Muslims in a united India? Is this provision for minority safeguards in the Lahore Resolution put forth with a sincere belief in its efficacy or is it the idea, at the back of the minds of the supporters of the resolution, that the real sanction for the protection of Muslim minority rights in Hindustan will be the 44 million non-Muslim hostages over whom Pakistan will rule? Can it for a moment be imagined that any reprisals based on the theory of hostages can continue without an almost certain armed

conflict between the two States? The minority problem in India, if the separatists have their way, will become an unending threat to the peace of the whole world.

191. We have shown that the partition of India cannot be brought about by consent; that it solves no communal problems and only raises fresh ones; that, on grounds of defence, leaving apart other major considerations, a division of the country into two independent States will endanger the safety of both and that there is no justification for the British Government to support such a revolutionary scheme if they have genuine faith in that unity of India which they have themselves built up and fostered. It is argued, however, that inspite of these dangers the Muslims will not be content unless they can have an independent State of their own. In a united India there will always be, according to this school, Hindu domination which the Muslims can never tolerate. It is a common occurrence that in politics, extremists of both sides join forces from opposed motives. While the Muslims demand separation to escape from the alleged domination of the Hindus, some eminent and thoughtful Hindu publicists advocate it as the only means of saving Hindus from being eventually submerged completely under the Muslims. They point out that Muslim contumacy feeds on appeasement; that the more the Hindus yield the greater is the Muslim appetite for larger morsels. They utter a grave warning that a stage may soon be reached, unless the Hindus are wide awake, when not only the Legislature and the Executive but the services may be so infected with communal feeling that a just and strong administration may become impossible. They ask, what would be the fate of the country if the poison spreads to the army? Is it not prudence and wisdom to have a safe army than to strive for a safe frontier? A separated Hindustan, though restricted in area, will be able, they say, to deal with the vast and urgent problem of the poverty of the masses, if it is relieved of an unending tussle for power among insatible political leaders of rival faiths. They warn the Hindus that the more they resist the demand for Pakistan the greater will be the Muslims' insistence on it. If the Muslims want separation, then, the Hindus should say that nothing would please them better. The destiny of States cannot be settled on mass psychology of such doubtful validity. Before rushing hastily to conclusions based on abstract political theories, of which the disastrous consequences have been described above, it is necessary to diagnose, with care and patience, the causes of the present discontents. Then alone will it be possible

to decide whether the disease in the body politic is capable of treatment or must be regarded as incurable.

192. We will now proceed to examine how far the fears of Hindu domination are justified by facts and whether there are no means of meeting legitimate Muslim claims in a united India. The Muslim League contention is that Muslims found Congress rule in the Provinces during the 30 months of its duration, from the autumn of 1937 to the winter of 1939, so intolerable and oppressive that any scheme of government for a united India such as a federation, as embodied in the Government of India Act, 1935, would be unacceptable to them, because it would place them under perpetual Hindu rule.

193. Is this brief experience—even if wholly true—conclusive of the incapacity of Hindus to be ever able to deal fairly with Muslims? Were the circumstances not exceptional? The elections for the new Provincial legislatures, under the Government of India Act, 1935, were held in 1937, giving the Congress a clear majority in five provinces and sufficient strength in three others to form ministries in combination with other parties. The Congress at first refused to accept office and consequently interim ministries were formed in the Congress majority provinces and responsible governments established in other provinces in April 1937. The Congress ultimately accepted office in July 1937, after a statement from the Viceroy that a Governor's responsibilities did not permit him to 'intervene at random in the administration of the province.' He further made it clear that those interests and communities which the safeguards were designed to protect must not think that 'any question will arise of sacrificing their interests for political reasons.' Of all the provinces in which the Congress ministries were formed, the United Provinces occupied a key position in regard to Hindu-Muslim relations. It is necessary to go in some detail into the affairs of this province in order to understand clearly the subsequent history of the sharp antagonism which soon developed between the Congress and the Muslim League. At the time of the elections in 1937, their electoral programmes were similar. They had a common platform. The only successful Muslim candidate set up by the Congress, Mr. Rafi Ahmad Kidwai, was not opposed by the League. Out of the 64 seats reserved for the Muslims, chosen by separate Muslim electorates, the Independent Muslims won 28, the League 26, the National Agricultural Party, led by the Nawab of Chhatari 9, and the Congress 1. It was generally believed that, when the Congress formed the ministry, they would include in it two prominent members of

the League. Unfortunately, when the ministry was formed, the League was not represented in it, because of disagreement on the terms on which the League could come in. The terms were as follows and were communicated to Choudhry Khaliq-uz-Zaman, the provincial Muslim leader by Maulana Abul Kalam Azad:—

> "The Moslem League group in the United Provinces Legislature shall cease to function as a separate group.
>
> The existing members of the Moslem League Party in the United Provinces Assembly shall become part of the Congress Party, and will fully share with other members of the Party their privileges and obligation as members of the Congress Party. They will similarly be empowered to participate in the deliberations of the Party. They will likewise be subject to the control and discipline of the Congress Party in an equal measure with other members, and the decisions of the Congress Party as regards work in the legislature and general behaviour of its members shall be binding on them. All matters shall be decided by a majority vote of the Party; each individual member having one vote.
>
> The policy laid down by the Congress Working Committee for their members in the legislatures, along with the instructions issued by the competent Congress bodies pertaining to their work in such legislatures, shall be faithfully carried out by all members of the Congress Party including these members. The Moslem League Parliamentary Board in the United Provinces will be dissolved, and no candidates will thereafter be set up by the said Board at any by-election. All members of the Party shall actively support any candidate that may be nominated by the Congress to fill up a vacancy occurring hereafter.
>
> All members of the Congress Party shall abide by the rules of the Congress Party and offer their full and genuine co-operation with a view to promoting the interests and prestige of the Congress.
>
> In the event of the Congress Party deciding on resignation from the Ministry or from the legislature the members of the above-mentioned group will also be bound by that decision."
>
> (Coupland: "The Constitutional Problem in India," Part 2, p. 111).

These terms were rejected. The omission of League Muslims from the ministry embittered the whole subsequent history of Hindu-Muslim relations throughout India. The Muslim aristocracy in the United Provinces had not only great wealth, but enjoyed consider-

able political power after the inauguration of the Montagu-Chelmsford Reforms in 1921. The late Maharaja of Muhammadabad, one of the premier noblemen of Oudh, who had taken a notable part in the Congress-League Pact in 1916, and an intimate friend of Mr. Jinnah, was in 1921 appointed a member of the newly established Executive Council of the Governor and was placed in charge of the important portfolio of Law and Order under the designation of Home Member. Five years later, he was succeeded by the Nawab of Chhatari, who held this portfolio for seven years and vacated office at the end of 1933 after acting as Governor of the province for more than six months. From 1923 to 1933, after the resignatin of the first Hindu ministers, the Home Member was a Muslim nobleman and one of the ministers was always a Muslim landlord in a government consisting of not more than four Indians. Exclusion from office of Muslims who had been till then, so prominent in politics in the U.P., was deeply resented and the most influential Muslim landlords joined hands with the League in opposition to the Congress. The League, thus strengthened under Mr. Jinnah's vigorous and astute leadership, assumed an attitude of unrelenting and bitter opposition to the Congress. At the All-India Muslim League meeting held at Lucknow from October 15 to 18, 1937, under the presidentship of Mr. Jinnah, which was attended by Sir Sikandar Hyat Khan, the Premier of the Punjab, Mr. Fazlul Huq, the Premier of Bengal and by other leading Muslims, the Congress were vehemently attacked within three months of their taking office. It is clear from the extracts given below that the root cause of discontent was the alleged unsatisfactory selection of the Muslim ministers. The Raja of Muhammadabad, Chairman of the Reception Committee, said: "A delicate political situation has been created in our own country by the majority community refusing to recognise even the existence of the Muslim community as such and it refuses to work in co-operation with our leaders for national advancement."

* * *

The following are some pertinent extracts from Mr. Jinnah's speech: "The Muslim League stands for full national democratic self-government for India..........The present leadership of the Congress, especially during the last ten years, is responsible for alienating the Mussalmans of India more and more by pursuing a policy which is exclusively Hindu and since they have formed the Government in six Provinoes, where they are in a majority, they have, by their words, deeds and programme, shown more that the Mussalmans cannot expect any justice of fairplay at their hands. Wher-

ever they are in a majority and wherever it suited them, they refused to co-operate with the Muslim League party and demanded unconditional surrender and signing of their pledges. The demand was insistent, abjure your party, foreswear your policy and programme and liquidate the Muslim League......that any individual Mussalman member who was willing to unconditionally surrender and sign their pledges was offered a job as a Minister and was passed off as a Muslim Minister, although he did not command the confidence or the respect of an overwhelming majority of the Mussalman representatives in the Legislatures......On the very threshold of what little power and responsibility is given, the majority community have already shown their hand that Hindustan is for the Hindus............the Governors and the Governor-General, who have been given the powers and special responsibility to safeguard and protect the minorities under the constitution......have failed to use them and have thereby been a party to the flagrant breach of the spirit of the constitution and the Instrument of Instructions in the matter of appointment of Mussalman ministers......In a matter like this, the Governors have shown their utter helplessness and disregard to their sacred obligations which were assumed by the British Government for the protection of minorities."

194. On the solitary basis of a single act, however ill-advised, the allies of a few months ago had turned into bitter opponents of the Congress, giving it no quarter and accusing it of being a Hindu organisation wholly inimical to Muslim interests. The Governors of the Congress provinces and even the Governor-General were accused of failing to discharge their responsibilities to the Muslim minorities by giving their consent to the appointment of unrepresentative Muslims as ministers. Henceforward, all the resources of a skilful and intense propaganda were used to spread the belief that the Muslims could expect only humiliation and injustice under Hindu rule. Committees were appointed to enquire into alleged actions of oppression on Muslims under Congress Governments. Their reports, though based on exaggerated and *ex parte* statements, were published and widely circulated. The attacks on the Congress had become so virulent that on October 5, 1939, Maulana Abul Kalam Azad, the Congress President, had the following correspondence with Mr. Jinnah.

The Congress President's letter to Mr. Jinnah on 5-10-39.

"In the resolution of the Working Committee of the All-India Muslim League, passed recently in Delhi, reference has been made

to Provincial Governments. It is stated that Provincial Autonomy in several provinces has resulted in the domination of the Hindus over the Muslim minorities whose life and liberty, property and honour are in danger, and even their religious rights and culture are being assailed and annihilated every day under the Congress Governments in various Provinces. Pandit Jawaharlal Nehru has also informed me that you mentioned this matter to him in the course of a recent conversation.

We feel that these charges are wholly unfounded and are based on misapprehension and one-sided reports that might have reached you and the League. The Governments concerned have inquired into the matter whenever such charges have been made and have denied them. On a previous occasion we expressed our willingness to have any specific instance investigated by impartial authority. We feel strongly, and I am sure, you will agree with us that such charges, when seriously made, should be enquired into and either substantiated or disproved. We would like this course to be adopted in regard to any specific instances that are put forward. If you agree, we could request the highest judicial authority in India, Sir Maurice Gwyer, Chief Justice of the Federal Court, to inquire into this matter. In the event of his not being available, some other person of a similar status and judicial position might be approached.

I shall gladly place this matter before the Working Committee of the Congress and get them to pass a formal resolution to this effect.

I am leaving for Wardha today and shall be obliged to you if you will send an early reply. I shall be in Wardha for about a week."

Mr. Jinnah's reply dated 6th of October.

"I am in receipt of your letter dated October 5, 1939. I beg to inform you that I have already placed the whole case before the Viceroy and the Governor-General and have requested him to take up the matter without delay as he and the Governors of the provinces have been expressly authorised under the constitution and are entrusted with the responsibility to protect the rights and the interests of the minorities.

The matter is now under His Excellency's consideration and he is the proper authority to take such action and adopt such measures as would meet our requirements and would restore complete sense of security and satisfaction amongst the Mussalmans in those

Provinces where the Congress Ministries are in charge of the administration.

In these circumstances, I do not wish to discuss further the various statements made in your letter as it is unnecessary to do so, but I must say that some of them are wholly inaccurate."

Mr. Jinnah declined to accept the Congress President's offer. Mr. Jinnah's suggestion to the Viceroy for the appointment of a Royal Commission, in which the Governors and the Governor-General were to be indicted for failure to discharge their responsibilities, was rejected by the Viceroy. A short while after, the Congress ministers resigned on an extra-provincial issue. The political discords had reached such a pitch that a day of deliverance and thanksgiving was observed as a mark of relief that Congress governments had at last ceased to function.

195. It is difficult, in the absence of a proper judicial investigation, to accept, as proved, charges made at a time when the memory of political disappointments was fresh, when party passions were running high and ordinary incidents, otherwise unnoticeable, aroused unusual resentment. Critics have argued: "Why did the Congress insist at the time that all ministers must belong to the Congress Party?" It might just as well be asked: why does the Muslim League insist now that all Muslims who aspire to office, whether in the Centre or in the Provinces, must be members of the League. Party purism is no less exclusive in the Muslim League today than what it was in the Congress in 1937. It is possible that the course of Hindu-Muslim relations might have been different if the rigid claims of party had been softened by political expediency. It is always easy to be wise after the event. In judging of actions, the circumstances governing them should not be forgotten. When Congress agreed to accept office, it had been for nearly 20 years in constant opposition to the British Government and at times in open revolt against it. There was no knowing when it might have to resume the conflict. The maintenance of party discipline and solidarity was therefore considered as of prime importance. The theory of undiluted party government thereby received additional strength. Adherence to a common programme was considered insufficient, nor was due allowance made for the feelings and ambitions of those who had either so recently been displaced from power or wished to share it anew. Personal disappointments brought factions and increased both the strength and virulence of opposition. In spite of these handicaps, the new ministers settled down rapidly to their task. They worked hard. They were interested in their work and got

on much better than was expected with the Services. No doubt, they made mistakes, but so have the non-Congress ministers. No impartial critic would deny that the ministers conferred great benefits on the peasantry and on factory labourers. No government is likely to interfere with the heritable security of tenure which has been conferred on the United Provinces tenants, which benefits Hindus and Muslims alike. It is worth noting that the Minister-in-charge of the far-reaching tenancy legislation in the U.P. was a Muslim, Mr. Rafi Ahmad Kidwai. The results of this legislation had a very steadying effect on the tenantry of the U.P. While after the first world war agrarian agitation led to great unrest in the U.P., during the present war the tenantry remained comparatively contented, because the benefit of high prices of agricultural produce remained largely with the tenants, as a result of the legislation which had been passed by the Congress ministry. There was a determined effort to improve the conditions of the underdog. Testimony to its good work on such lines has been borne by two Governors, Sir Harry Haig, former Governor of the U.P. and Lord Erskine, former Governor of Madras, and British statesmen like Lord Samuel and the late Lord Lothian. We quote below extracts from the public speeches of Lord Linlithgow, which would show that the record of the Congress was not wholly as black as Mr. Jinnah would have us believe:

On 3rd January 1938, at the European Association, Calcutta, dinner, he said:

> "I watched with the closest interest the developments in every province since the 1st April (1937). I have lost no opportunity of establishing personal contact with responsible ministers and leaders of political thought from those provinces. I will frankly say that, given the great difficulties inherent in a radical change, such as that represented by the introduction of provincial autonomy, all of us, Indian or European, whatever our party affiliations, can feel that the working of this great experiment in the period of which we have now had experience, reflects nothing but credit on those responsible......Looking back over these eight months, I see no reason whatever for dissatisfaction or for apprehension as to the future working of the constitution. I see indeed good and strong reason for optimism. The Governments which hold power in the autonomous provinces have shown in a marked degree a sense of responsibility and readiness to face the facts of the situation by which they may find themselves confronted."

At a meeting of the Associated Chamber of Commerce, Calcutta, on the 19th of December 1938, he said:—

> "Another year's experience of the working of provincial autonomy leaves, I venture to claim, no room for doubt on any of these points. The tributes which Ministers of all political parties have in recent months paid to the work of the great Services speak for themselves. I know from first hand how real is the importance which Ministers attach to the loyal and willing co-operation which they have received. I can speak equally from first hand of the friendly character of the relations between Governors, standing as the King's representatives outside and above party, and their Ministers. As to the working of the special responsibilities, you will, I am sure, agree that the forecast which I gave in my message to India of June last year has been amply and fully realised. He would be a bold man who, today, even in these conditions, excluded the possibility, from one cause or another, of difficulty, even of very serious difficulty, in the future. But, on a broad view, the great experiment of provincial autonomy, the transfer of real powers to ministers elected by an electorate five times the size of any electorate that had previously voted in India, has proved a marked success. And, given the continuance of the goodwill and the understanding which has been given in such full measure, there is no reason today why we should not look with confidence to the future."

At the Orient Club, Bombay, on 23rd January 1939, he said:

> "I think the first topic that comes into one's mind when one finds oneself in the Capital of this great Presidency, is the working of provincial autonomy. No one can fail to be struck by the degree of success that it has achieved—a degree of success all the more significant in the case of a historic Presidency, a great port, a great city, such as yours. It is no small tribute to all concerned that after the two years, or almost two years, that have passed since Part III of the Act of 1935 came into operation, things should have gone so well and the outlook for the future should, all things considered, hold out so much promise."

In no single instance did the Governors feel called upon to exercise their special responsibilities. Sir Reginald Coupland, by no means a friendly critic of the Congress, has summarised his conclusions as follows:—

> "An impartial investigator would come, I think, to the conclusion that many of those charges were exaggerated or of little

serious moment, that many of the incidents complained of were due to irresponsible members of the Congress Party, and that the case against the Congress Governments, as deliberately pursuing an anti-Muslim policy, was certainly not proved."

("Cripps Mission" by Prof. Coupland, p. 15).

On this record of the Congress of a bare thirty months is based the charge of Hindu domination necessitating a partition of the country, and also the verdict that the system of democratic government is entirely unsuitable to Indian conditions. When Mr. Jinnah pronounced this verdict, however, he gave full countenance and support to the working of democratic government in the Muslim provinces and what is more, in spite of these diatribes against democracy, it was to be the rule in Pakistan where "it will function with the will and sanction of the entire body of people irrespective of caste, creed or colour." If the inference is that Muslims can run a democratic government, while Hindus cannot, Pakistan does not improve in any way the position of the Muslim minorities in Hindustan. The Hindu and Muslim population cannot be completely segregated. The Muslim minority will still continue to be ruled by the same Hindu majority as at present. We have shown above that if safeguards can be provided for Hindus, by no process of reasoning, are they impossible in the case of Muslims? We have also shown that promiscuous reprisals against law-abiding and peaceful citizens cannot form the basis of civilised government. Both Hindustan and Pakistan would soon sink into barbarism and chaos, if reprisals were to be the recognised method of "maintaining democratic rule in Pakistan."

196. But, say the protagonists of Pakistan, the crux of the matter is a common Centre. In a united India, according to them, Muslims will always be a minority and the Hindu majority will be constantly interfering with the Governments of Muslim provinces and imposing on them a permanent Hindu rule. How will Pakistan improve matters? The Muslim minorities in Hindustan, attenuated as they will be, will remain under a Centre predominantly Hindu. It is true that the non-Muslim minorities in Pakistan will be under a Centre predominantly Muslim. But, unless the Governments of the two States at the Centre learnt the art of dealing fairly with their respective minorities, two Centres will be no remedy, for the problem will only be duplicated and not solved. Here again the barbaric belief in hostages and reprisals lurks suspiciously behind all pronouncements of the future government of Pakistan being based on the consent and will of the people.

197. If it were conclusively established that Hindus and Muslims cannot live together under one Government, because the Hindus will always oppress the Muslims under one central government, the remedy will have to be something more desperate than a Pakistan which claims to be completely independent of the British. Mass emigrations are impossible. The Muslims can only escape from the dilemma by being the rulers of the whole country again. This would inevitably spell war. The great powers, much better equipped than their rival Indian combatants, will not play the part of onlookers and both Muslims and Hindus will lose all that they have so far gained and remain the slaves of a foreign power. No reasonable man would suggest such a desperate course. One of the chief difficulties of dealing with the Indian problem is the recent habit of discussing it on abstract grounds. As has already been pointed out during the elections of 1937, the League and Congress had the same political platform and there was every expectation that they would work together in the Government. Within less than three years, however, a common Centre was pronounced as an impossible solution, although India was given no opportunity of governing herself from such a Centre.

No conclusions are therefore possible in the light of experience. The federal part of the Government of India Act, framed after the most laborious care and scrutiny by some of the most distinguished statesmen of England and India, was never put into operation. It was suddenly postponed at the outbreak of the war. It was a fateful decision apparently made in panic and without fully realising its disastrous consequences. All the elements of disruption have been let loose. The shrill cry of India being a country of irreconcilable races, of jarring creeds, divergent cultures and heterogeneous people again fills the air. The prospects of federation have receded into the distance. Its praises were sung in repeated Viceregal pronouncements; when the goal was almost within sight, all effort to reach it was abandoned. We are now asked to embark anew on a voyage of constitutional discovery with the political sky overcast and with strong currents raging underneath of communal bitterness and suspicion. There is however no reason to despair that all the hopes of freedom so ardently cherished by Hindus and Muslims alike will be ship-wrecked.

Indian statesmanship is not so bankrupt as to give up the task in despair. There must be a radical change in the methods of controversy; political bickerings must not end in the permanent estrangement of the two great communities, whose joint contribu-

tions briefly recorded in Chapter III of this Report, are enshrined in the pages of Indian history and in those imperishable monuments of stone and marble, which bear witness to a glorious past and are an inspiration for a more glorious future. Let us take heed of the following words of a great British statesman, Lord Balfour. Speaking of the temper requisite for working a democratic system of government, he observes:

> "It matters little what other gifts a people may possess, if they are wanting in those which, from this point of view, are most important. If, for example, they have no capacity for grading their loyalties as well as for being moved by them; if they have no natural respect for law; if they lack good humour and tolerate foul play; if they know not how to promise or when; if they have not that distrust of extreme conclusions which is sometimes described as want of logic; if corruption does not revolt them; if their divisions tend to be much too numerous or too profound; the successful working of British institutions may be difficult or impossible."

In the proposals which we have put forward for the outlines of a permanent constitution, we have not been the slaves of theory or of logic. We have realised fully the value of compromise. We have gone to the utmost limits of concession in our sincere desire to meet the legitimate claims of important communities and to allay their fears. The problem which we have to face is of the same order of difficulty as at one time faced the League of Nations. It was admirably described by M. Briand:

> "The real problem is, while ensuring that the minorities shall preserve their language, culture, religion and traditions, to keep them as a kind of small family within the larger family, not with the object of weakening the larger family, but with the object of harmonising all its constituent elements with those of the country as a whole. The process at which we should aim is not the disappearance of the minorities, but a kind of assimilation which will increase the greatness of the nation as a whole, without in any way diminishing the importance of the smaller family."

198. Before passing on to our proposals for a permanent constitution, we wish to review briefly a solution suggested by Prof. Sir Reginald Coupland, which goes under the name of Regionalism. He is the sponsor of a three decker constitution. The whole scheme is an attempt to meet Mr. Jinnah's demands for Pakistan. Under

it, India is to be divided into four regions, the underlying idea being to create artificially two regions in which Muslims are in a majority and another two in which the Hindus are. In grouping the areas to form these regions, no regard has been paid to history, language, culture or contiguity. Parts of Rajputana are grouped with Sind and Baluchistan. The ostensible basis of grouping is economic. Each region is to have a regional legislature and an executive council. The Centre of the regions is to be reduced to an agency for carrying out the mandate of the regions and is to be concerned only with (1) defence and foreign policy; (2) tariffs; (3) currency; all other subjects are to be divided between the regions and the provinces composing them. In order not to disturb the communal balance of fifty-fifty which seems to be the obsession of the author, the legislature and the executive are so devised as to have an equal number of Muslims and non-Muslims. This parity is to extend to the highest judicial tribunal, the Supreme Court. Prof. Coupland has not touched on the composition of the army or the services. But it is easy to surmise how his thoughts are running. How would a deadlock be resolved when the executive would be composed of representatives of the regions and there might be a conflict of inter-regional interests or on questions of foreign policy or defence? India is to be governed by an executive so communally balanced that all government may become impossible by a perpetual deadlock. According to Prof. Coupland, there must be 'a weak centre or no centre'; he has therefore provided not only a weak Centre but a Centre which may be in a state of prolonged paralysis. This is how Sir Reginald Coupland commends his scheme:—

> "Regionalism, it is true, does not satisfy the Muslim claim on one point. It does not concede full independence to the Muslim State. But it meets the claim on every other point. It accepts the two nations principle. It establishes the Indian Muslim nation in a national State or States. It recognises that those States, whatever their size or population, are equal in status with the Hindu States or groups or provinces."
>
> (Coupland, Part 3, "The Future of India" p. 135).

While Mr. Jinnah asks for the whole of the Punjab, Sind, Baluchitan and the N.W.F. Province, Sir Reginald Coupland offers him a bigger State including Ajmer Merwara, though excluding the Ambala division of the Punjab Province. In the N.E. the whole of Bengal and Assam is to go to the Muslim region, although it has been shown that 2/3rd of Assam is not Muslim and Calcutta and

West Bengal are predominantly Hindu. As rivers are to determine the political distribution of provinces, the main Sikh areas are to be included in the Muslim region, because being watered by the Sutlej and the Ravi, they belong to the Indus region. Is it to be imagined that a scheme, so fantastic, is likely to form the basis of a permanent settlement between the various communities? Will it endure after the political necessity of placating Muslim opinion at any cost has disappeared? We need not discuss in detail Sir Reginald Coupland's proposals for the grouping of the Indian States under his scheme. It is sufficient to point out that, according to him, if the States agree to regional grouping, then their representatives at the Centre and in the Legislature must not disturb the 50-50 proportion which he has proposed for the British areas. It does not seem to occur to the learned author that, if the non-Muslims are prepared to accept parity with the Muslims in the Central Executive, in the Legislatures, in the Supreme Court, and so on, then where is the need for recasting the whole map of India and dividing it into heterogeneous regions, with the added complication of an intermediate governmental machine between the Centre and the Provinces? We have confined ourselves exclusively to the political aspects of regionalism. For a full discussion of this fantastic proposal, so unmistakably academic and so removed from reality, we would refer to Dr. D. R. Gadgil's luminous and full analysis of regionalism in his book "Federating India."

199. We have discussed the various schemes of partition and given our reasons for rejecting them. We are convinced that the partition of India would be an outrage justified neither by history nor by political expediency. It is incompatible with the greatness, safety and economic development of the country and will lead either to constant internecine war or perpetual foreign domination. It multiplies and complicates the problem of minorities without solving it and threatens to plunge India back into the dark and dismal days of the 18th century. The Hindus and Muslims will still continue to live side by side, as they have done for a thousand years. Our views against the disruption of the common homeland of the Hindus and the Muslims and the other communities are contained in the following recommendation (No. 4) of the Committee:

"The Committee, having considered carefully the resolution of the Muslim League passed at Lahore in 1940, the various other resolutions of the League and the published version of the talks between Mr. Jinnah and Mahatma Gandhi and having also considered the C. R. and Gandhi proposals, is emphtically of opinion

that any division of India into two or more separate independent sovereign States is unjustified and will endanger the peace and orderly progress of the whole country without any compensating advantage to any community, and that the political unity of India should, therefore, be maintained."

It may be appropriately reinforced by a quotation of the exhortation of Abraham Lincoln, made to the Southern States on the eve of the civil war:

> "Physically speaking, we cannot separate. We cannot remove our respective sections from each other, nor build an impassable wall between them. A husband and wife may be divorced, and go out of the presence and beyond the reach of each other; but the different parts of our country cannot do this. They cannot but remain face to face, and intercourse, either amicable or hostile, must continue between them. Is it possible, then, to make that intercourse more advantageous or more satisfactory after separation than before? Can aliens make treaties easier than friends can make laws? Can treaties be more faithfully enforced between aliens than laws can among friends? Suppose you go to war, you cannot fight always; and when, after much loss on both sides, and no gain on either, you cease fighting, the identical old questions as to terms of intercourse are again upon you."

We trust that our plea will be heard. We have spared no pains to suggest the means of an honourable settlement short of breaking up the unity of the country.

1941 CENSUS.

District or State.	Percentage in total population of — Muslims.	Non-Muslims.
BENGAL		
1. Burdwan ..	17·8	81·6
2. Birbhum ..	27·4	72·8
3. Bankura ..	2·3	95·5
4. Midnapur ..	7·7	22·2
5. Hoogly ..	15·1	84·9
6. Howrah ..	19·9	79·9
7. 24 Paraganas ..	32·4	66·4
8. Calcutta ..	23·5	73·6
9. Nadia ..	61·2	38·1
10. Murshidabad ..	56·5	43·3
11. Jessore ..	60·3	39·8
12. Khulna ..	49·3	50·4
13. Rajshahi ..	74·6	25·2
14. Dinajpur ..	50·2	49·7
15. Jalpaiguri ..	23·0	76·2
16. Darjeeling ..	2·4	
17. Rangpur ..	71·4	28·5
18. Bogra ..	83·9	16·0
19. Pabna ..	77·1	22·9
20. Malda ..	56·7	43·1
21. Dacca ..	67·3	32·4
22. Mymensingh ..	77·4	22·5
23. Faridpur ..	64·8	34·8
24. Bakarganj ..	72·3	27·0
25. Tippera ..	77·1	22·8
26. Noakhali ..	81·4	18·6
27. Chittagong ..	74·6	21·6
28. Chittagong Hill Tract ..	...	...
States.		
29. Tripura ..	24·0	74·2
30. Cooch-bihar ..	37·9	61·8
ASSAM		
1. Cachar ..	36·3	62·5

District or State.	Percentage in total population of — Muslims.	Non-Muslims.
ASSAM		
2. Sylcheh	60·7	39·1
3. Khasi Jaintia Hills	1·3	98·0
4. Naga Hills ..	0·3	99·6
5. Lushari Hills ..	..	97·8
6. Goalpara	46·2	53·7
7. Kamrup	29·1	70·8
8. Darrang	11·5	82·6
9. Nowgong	35·2	64·0
10. Sibsagar	4·8	93·5
11. Lakhimpur ..	5·0	93·5
12. Garo Hills ..	4·7	95·2
SIND		
1. Dadu	84·8	15·0
2. Hyderabad ..	67·0	32·4
3. Karachi	64·1	31·3
4. Larkhana	81·8	17·8
5. Nawabshah ..	75·0	24·1
6. Sukkur	71·2	28·2
7. Thar Parkar	50·2	49·2
8. Upper Sind Frontier	90·5	9·5
N. W. F. P.		
1. Hazara	95·1	3·8
2. Mardan .. } ..	95·4 }	2·2 }
Peshawar } ..	90·3 }	6·0 }
3. Kohat	92·1	5·9
4. Bannu	87·2	10·5
5. Dera Ismail Khan	85·9	13·1
BALUCHISTAN ..	87·3	9·0
BALUCHISTAN STATES	97·2	2·8

Districts and States.	Percentage in total population of			Districts and States.	Percentage in total population of		
	Muslims.	Sikhs.	Rest.		Muslims.	Sikhs.	Rest.
PUNJAB				19. Shahapur ..	83·7	4·8	10·2
				20. Jhelum ..	89·5	3·9	6·5
1. Hissar ..	28·2	6·0	64·8	21. Rawalpindi ..	80·0	8·2	10·5
2. Rohtak ..	17·2	0·1	81·7	22. Attock ..	90·5	3·0	6·4
3. Gurgaon ..	33·5	..	66·8	23. Mianwali ..	86·2	1·4	12·4
4. Karnal ..	30·6	2·0	67·0	24. Montgomery ..	69·1	13·9	15·9
5. Ambala ..	31·6	18·4	48·7	25. Lyallpur ..	62·8	18·8	14·6
6. Simla	18·2	2·7	74·3	26. Jhang ..	82·6	1·5	15·8
7. Kangra ..	5·1	0·6	94·3	27. Multan ..	78·0	4·2	16·9
8. Hoshiarpur ..	32·5	16·9	49·8	28. Muzaffargarh	86·5	0·8	12·8
9. Jullunder ..	45·2	26·4	27·6	29. Dera Gazi			
10. Ludhiana ..	36·9	41·7	21·4	Khan ..	88·9	0·2	11·7
11. Ferozepore ..	45·1	33·7	20·2				
12. Lahore ..	60·7	18·3	16·8	PUNJAB States			
13. Amritsar ..	46·5	36·1	15·4				
14. Gurdaspur ..	50·2	19·2	25·2	1. Kapurthala ..	56·4	25·9	16·3
15. Sialkot ..	62·1	11·7	19·4	2. Faridkot ..	30·7	57·7	10·9
16. Gujaranwala ..	70·4	10·9	11·9	3. Patiala ..	22·6	47·3	30·9
17. Sheikkupura ..	63·6	18·9	10·5	4. Jind	14·1	11·3	74·2
18. Gujrat ..	85·6	6·4	7·7	5. Nabha ..	20·7	36·0	42·9

CHAPTER V

THE LEGISLATURE, THE EXECUTIVE AND THE JUDICIARY.

200. We have in the preceding chapter dealt with the question of Pakistan and have come to the conclusion that there is no likelihood whatsoever of the Hindus, the Sikhs and several other minorities agreeing to Pakistan of the latest Muslim League conception and any other variants of it. We have, therefore, to consider whether the just apprehensions of the Muslims and other communities canont be reasonably allayed by any arrangement which will keep India undivided and at the same time, afford to these communities sufficient scope for self-development. We are convinced that the recommendations we have ventured to make in our report will serve that purpose.

201. We shall commence with Recommendation No. 9 (e) which we think is fundamental. It provides that in the strength of the Union Assembly, excluding the seats allotted to special interests, such as commerce and industry, landholders, labour, and women, Muslim representation from British India shall be on a par with the representation given to Hindus (other than Scheduled Castes) in spite of the great disparity in their respective population strengths; but it will be noticed that we have conditioned this recommendation with the requirement that the Muslim community on their part should agree to the substitution throughout of joint electorates with reservation of seats for separate communal electorates. The offer of parity is subject to this condition, without the fulfilment of which, in our opinion, the Hindu community should not be bound by this recommendation. We are aware of the strong criticism to which this resolution about parity has been subjected by the Hindus. It has been said that it is unjust that their overwhelming majority should be brought down to the level of the Muslim minority which is about 26 or 27 per cent. On abstract grounds of justice it may be admitted that there is a great deal of force in this criticism, but it should be mentioned that it is the Hindus generally who have been laying stress on the need of joint electorates, and it is the con-

viction of the Hindus at large, and of a good many Muslims also, that a great deal of the present-day estrangement between the two communities may easily be traced to the inauguration of separate electorates under the auspices of Lord Minto. They have now been in existence for forty years and the payment of an extra price for their abolition is worthy of acceptance in the larger interests of national harmony. On the other hand we are alive to the Muslim objection to joint electorates. The Muslims hold that general electorates will not enable them to return those representotives to the Legislatures who really command their confidence. We refuse to believe that the Muslims who will be elected on the basis of joint electorates will be so lacking in character as to sacrifice deliberately the interests of their co-religionists merely because they have been returned by the joint votes of the two communities. If the result of joint electorates in such that it will make it impossible for extreme communalists to enter the Legislatures and pollute the atmosphere of public life by their partizan views, we think it would be an advantage. The mischief which has been done to the cause of the harmonious development of the country and the growth of good feelings between the two communities by communal extremists, both among the Hindus and Muslims, is incalculable. It should be noted that an important part of this recommendation is the reservation of seats for the Muslims in multi-number constituencies which would secure unaltered the requisite strength to the Muslim community. This recommendation of parity has also been criticised on the ground that it is deceptive and unreal as it will be possible for the Hindus in the Legislature, in spite of parity, to capture the votes of the minorities. We think that it is not fair to minorities like the Indian Christians, Scheduled Castes or Sikhs to suggest that they will make a dead set against the Muslims. If they do so on any particular occasion, it would be due to the peculiar weakness of the Muslim position. Speaking generally, these minorities would supply the ballast in the legislature. After all, the questions which may be regarded as purely communal are very small compared to the number of economic, social or political questions most of which equally affect the interests of the two communities.

202. We have further emphasised our view that, if this recommendation with regard to general electorates and parity is not implemented in its entirety, the Hindu community should be at liberty not merely not to agree to the claim for parity of representation but to ask for a revision of the Communal Award. As we have shown in the preceding chapter, this award is unfair to the Hindus and

they have not yet been reconciled to it. We have also recommended that the representation given to the Sikhs and Scheduled Castes in the Government of India Act is manifestly inadequate and unjust and should be substantially raised. According to our scheme the strength of the Union Assembly must be so fixed that there shall be on an average one member for every million of the population and 10 per cent. of the total strength must be reserved for the representation of special interests.

203. We are aware of the criticism in certain quarters that in the legislature of the country there should be no room for special interests. We feel, however, that we ought not to take an extreme view of a matter of this importance and alienate certain classes and interests at the present stage of our development by depriving them of representation in the legislature. We cannot forget that, rightly or wrongly, during the last 200 years, particularly during the British times, some of these special interests like the land-owning classes, by reason of their status, heredity and instincts, have acquired a peculiar position in our body politic. It would be wrong on our part to condemn them as a body and deprive them of the protection of their interests. We do not wish to start a constitution in a spirit of conflict with any section. We rather trust to the working of the forces of time and hope that these classes themselves will soon recognize that the time has gone by when they could keep themselves aloof from the rest of the community or from their tenantry, relying upon the support of a bureaucratic government. The Government of the future will be that of their own countrymen and we feel confident that it will not be long before they realise that wisdom lies in conforming to the changed circumstances of the time.

204. The representation of Labour and Women seems to us to call for special protection. We have no doubt that the forces which are operative at present will endow Labour with growing strength and organised Labour in India will soon occupy the same position as in the West. In the case of women, we are anxious that, while they may be at liberty to contest with men in general electorates, a minimum of representation should be guaranteed to them. In matters of social and moral development particularly with reference to public health, education, child welfare, and the welfare of their sex, educated women in India can play a great part and the presence of their representatives in the legislature is, in our opinion, absolutely essential.

205. Similarly, Commerce and Industry would require national support at this stage. The future of India is bound up with indus-

trial development on modern lines and it is most desirable that Commerce and Industry should supply, to the legislature, men with practical knowledge and experience of the complex problems which the legislature would be called upon to face.

206. Attention may be drawn to an important part of our Recommendation No. 9, namely, that for the Union Assembly there shall be adult franchise for seats other than those reserved for special interests. This question was examined in great detail by the Lothian Committee which came out to India in 1932. In paragraph 32 of their Report the Committee observed as follows:—

> "Finally, after discussing simplified polling methods with officials in every province, we are faced by the fact that without a single exception every one of the provincial governments and the provincial committees has not only declared that adult franchise is administratively impracticable today, but has placed the maximum of administrative practicability at some figure below 20 per cent of the total population, corresponding to very much less than half of the adult population. In these circumstances, while we refrain from dogmatic assertions as to the exact numbers, or the exact percentage, of the population which can be polled either in each individual Province, or in British India as a whole, we are of opinion that complete adult franchise is administratively impracticable at the present time."

207. Further on in paragraph 33 of their Report they say as follows:

> "We turn now to the more general arguments against the immediate introduction of adult franchise. The two special problems which confront India in setting on foot a system of responsible government are the huge numbers involved—numbers which are far larger than have ever been made the foundation for a democratically governed state in history—and yet the fact that only 8 per cent of these are literate (men literate 13.9 per cent, women literates 2.1 per cent). Literacy is by itself no test of wisdom, character, or political ability and illiteracy by no means implies that the individual is not capable of casting an intelligent vote on matters within the range of his own knowledge and experience. The Indian villager, like the peasant all over the world, is a fairly shrewd person. Illiteracy, however, inevitably restricts the range of the individual's knowledge and his power of access to knowledge. He can read neither books nor newspapers, and is therefore dependent for knowledge of matters concerning his province, or India as a

whole, or the outside world, upon what he can learn from the conversation of his neighbours, most of whom in India are also illiterate, supplemented by occasional readings by others from newspapers, and from canvassing and public meetings held by candidates and their agents at times of election. It is therefore much more difficult for the illiterate voter in an Indian village —and the villages contain 90 per cent of the population of India —to obtain information upon public questions beyond the district in which he or she lives which will enable him or her to cast a discerning vote, than it is for the literate voter who can read newspapers, magazines and books."

208. They then refer to the impediment of illiteracy. They say that "Illiteracy can be broken down only by universal primary education. Until this has been introduced, it should be possible to do something to help the illiterate voter through the growth of broadcasting." We sincerely hope that, in any scheme of educational reconstruction in India, the expansion of universal primary education will receive a high priority if not the first. We are however anxious to point out that this report of the Lothian Committee was written so far back as May 1932. Since then, there has been considerable awakening in the country and, though universal primary education is still a thing of the future, we maintain very strongly that its absence should not be treated as a sufficient argument against the adoption of adult franchise. We realise that party organisation, to use the words of the Lothian Committee, 'has always been essential in a successful democracy, for the return of unrelated individuals, however able, does not provide that steady majority without which a stable executive under a system of responsible government cannot exist.' We desire, however, to point out that since this report was written, party organisations have sprung up with surprising rapidity, such as the Congress, the Muslim League and the Hindu Mahasabha. It is unfortunate that many of these are frankly communal organisations, confining their membership to persons belonging to particular communities and laying undue stress on separatist, communal issues. Such national programmes as they have espoused, as also the programmes of parties organised on political and national lines, have so far been concerned largely with achieving self-government for India rather than with the policies which should be followed under a regime of responsible government. But as the Lothian Committee indicated in 1932, it is only after full responsible government has been introduced both at the Centre and in the Provinces, that the realignment and functioning of parties on healthy

political lines can be looked forward to with confidence. In summing up their case against the adoption of adult franchise, the Lothian Committee finally said:—

> "Having regard to the prodigious task of educating a mainly illiterate electorate, the fact that party organisation is still in its infancy, and the burden both for the official machinery and for the candidates of dealing with 130 million voters, it seems to us to be the course of wisdom and statemanship not to attempt to launch the new constitution on the basis of adult franchise, but to seek a more manageable basis, at the same time providing that the system of franchise will give reasonable representation to the main categories of the population. It will then be for the legislatures themselves, after a definite period has passed, to determine at what pace the electorate should be expanded and the date when they may wish to introduce adult suffrage."

209. We again desire to emphasise the fact that the introduction of the Act of 1935 and the establishment of Provincial Autonomy in the Provinces of India—notwithstanding that its working has been interrupted in seven or eight Provinces—has made a great difference in the situation. The last election was in itself a powerful educative force. It has awakened political consciousness among the masses to a remarkable extent and has made the average man think in terms of politics. His judgment may be faulty, his reasoning inaccurate and his support of a candidate not infrequently determined by considerations removed from a high sense of democracy; he is yet no better or worse than the average voter in many parts of Europe where adult franchise has been in force for some time. It cannot be argued that the educated man always selects the right candidate and on the right principles, but there is no doubt that the repeated exercise of the franchise is in itself a great education. If political power is to be transferred to an Indian democracy so as to prevent its concentration in the hands of a powerful few, it is very necessary that the risk of enfranchising the entire adult population should be taken now.

210. We may point out that our Recommendation No. 9, dealing with the Union Legislature, No. 10, dealing with distribution of powers, and No. 11 dealing with the Union Executive are intended to be read together as parts of an entire scheme. Before Pakistan was talked of, one of the main complaints made in Muslim quarters with regard to the Government of India Act was that the subjects included under the Act of 1935 in List I (Federal list) and III (concurrent list) made the Centre unduly strong, giving it a position of

domination over the provinces. The claim was further stressed that what are called residuary powers should be lodged with the Provinces. The criticism was that in framing this constitution the British Parliament had wrongly followed the Canadian model, under which residuary powers do not reside in the Provinces but are vested in the Centre. A detailed discussion of this matter would be outside the scope of this chapter, but we shall point out as briefly as possible what the position is in the U.S.A., Australia, Canada and under the existing constitution of India.

The Constitution of the United States of America, 1787, by 17 clauses in section 8 of Article I, gave power to the Congress in matters which might be aptly described as of common concern to the entire Federation, e.g., the levying and collection of taxes, defence, borrowing, coinage, posts, declaration of war, raising of arms, maintenance of a navy, and similar other subjects. Further, by clause 18, the Congress is given a general power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof. With reference to the powers granted to the Congress as stated above, the theory of the Constitution is that what has not been granted to the Congress remains with the State. As Story points out (paragraph 1900 of his Commentaries, Vol. 3, page 752) "Being an instrument of limited and enumerated powers, it follows irresistibly, that what is not conferred, is withheld, and belongs to the state authorities, if invested by their constitutions of government respectively in them; and if not so invested, it is retained by the People, as a part of their residuary sovereignty." This view is confirmed by Prof. Willoughby, a great authority on the American Constitution (see page 76 of his book "Constitution of the United States," Volume I, 2nd edition):—

> "For the purpose of a treatise on the Contsitutional law of the United States as it exists today, it is sufficient to describe the Constitution as a legal instrument distributing governmental powers between the Federal and State Governments, according to the general principle that the powers granted the Federal Government are specified, expressly or by implication, and that the remainder of the possible governmental powers 'not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.' "

211. In this connection attention may be drawn to Article X of the Amendments, which runs as follows:—

> "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

212. With reference to this amendment and clause 18, mentioned above, Prof. Willoughby observes that, though the Federal Government is one of enumerated powers, its powers are not described in detail, and from the very beginning it has been held to possess, not simply those powers that are specifically or expressly given it, but also those necessary and proper for the effective exercise of such express powers. He further draws attention to the fact that in the Tenth Amendment, above quoted, the powers reserved to the States or to the people are not those not expressly delegated to the United States, but simply those not delegated.

213. We need not here deal with the controversy whether Federal Powers should be liberally or strictly construed or go into the technical intricacies as to the scope and meaning of implied powers. In a celebrated judgment in the case of Gibbons vs. Ogden, Chief Justice Marshall thus explained the constitutional position:— "This instrument contains an enumeration of powers expressly granted by the people to their government. It has been said that these powers ought to be construed strictly. But why ought they to be so construed? Is there one sentence in the Constitution which gives countenance to this rule? In the last of the enumerated powers, that which grants, expressly, the means of carrying all others into execution, Congress is authorised 'to make all laws which shall be necessary and proper' for the purpose. But this limitation on the means which may be used, is not extended to the powers which are conferred; nor is there one sentence in the Constitution which has been pointed out by the gentlemen of the bar, or which we have been able to discern, that prescribes this rule. We do not therefore think ourselves justified in adopting it. What do gentlemen mean by a strict construction? If they contend only against that enlarged construction which would extend words beyond their natural and obvious import, we might question the application of the term, but should not controvert the principle. If they contend for that narrow construction which, in support of some theory not to be found in the Constitution, would deny to the government those powers which the words of the grant, as usually understood, import, and which are consistent with the general views and objects of the instrument for that narrow construction which would cripple

the government and render it unequal to the objects for which it was declared to be instituted, and to which the powers given, as fairly understood, render it competent, then we cannot perceive the propriety of this strict construction, nor adopt it as the rule by which the Constitution is to be expounded. As men, whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said. If, from the imperfection of human language, there should be serious doubts respecting the extent of any given power, it is a well settled rule that the objects for which it was given, especially when those objects are expressed in the instrument itself, should have great influence in the construction. We know of no reason for excluding this rule from the present case. The grant does not convey power which might be beneficial to the grantor, if retained by himself, or which can enure solely to the benefit of the grantee, but is an investment of power for the general advantage, in the hands of agents selected for that purpose, which power can never be exercised by the people themselves, but must be placed in the hands of agents, or lie dormant. We know of no rule for construing the extent of such powers, other than is given by the language of the instrument which confers them, taken in connection with the purposes for which they were conferred."

214. On the other hand it has been pointed out by Prof. Willoughby that the propriety of the rule of construction laid down by Chief Justice Marshall "is absolutely dependent upon the prior assumption that the Federal Government exists as the agent of the people, and not, as declared by the States' Rights theory, as the agent of the States." We need not go into the technical intricacies as to the meaning, but we may point out here what that great authority on the American Constitution, Story, says on the subject. "All powers not delegated, (not all powers not expressly delegated), and not prohibited, are reserved. (McCulloh vs. Maryland, 4 Wheat. R. 406, 407).

215. It need scarcely be pointed out that when this great instrument of Constitution was drawn up as a result of agreement the States which were parties to it were already sovereign States. The conditions in India are different for it is doubtful, apart from the Provinces, whether even Indian States, such as Hyderabad, Mysore, Kashmir, Travancore and Cochin can be described as sovereign

States in the American sense, in the light of the Indian doctrine of Paramountcy.

216. Coming next to Canada we may point out that the distribution of legislative powers there is affected by two sections of the British North America Act—sections 91 and 92. Section 91 provides as follows:

> "It shall be lawful for the Queen, by and with the advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated."

217. The Section then proceeds to mention in 28 clauses different subjects of common concern to the entire country, like public debt, trade and commerce, taxation, defence, shipping, Banking etc.

218. Then follows clause 29 which says "Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces. And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces."

219. These powers, it will be observed, are described in the opening portion of this section as constituting the exclusive legislative sphere of the Parliament of Canada. Similarly section 92 of the British North America Act deals with subjects of exclusive provincial legislation. The following are a few of the important items in that section:—

(a) Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
(b) The borrowing of Money on the sole Credit of the Province.
(c) Property and Civil Rights in the Province. This is a power which has been judicially very widely interpreted by the Canadian courts and by the Privy Council.
(d) All matters of a merely local or private Nature in the Province.

220. In a leading case from Canada (decided by the Judicial Committee of the Privy Council) known as the Liquidator's case, Lord Watson described the constitutional position of Canada as follows:

"The object of the Act was neither to weld the provinces into one, nor to subordinate provincial governments to a central authority, but to create a federal government in which they should all be represented, entrusted with the exclusive administration of affairs in which they had a common interest, each province retaining its independence and autonomy. That object was accomplished by distributing between the Dominion and the provinces all powers, executive and legislative, and all Public property and revenues which had previously belonged to the provinces, so that the Dominion Government had powers, property, and revenues as were necessary for the due performance of its constitutional functions, and that the remainder should be retained by the provinces for the purposes of provincial government."

221. Mr. Justice Clement in his book on the Canadian Constitution summarises the position as follows:—

"It may now be affirmed with some degree of assurance that the British North America Act embodies a system of government based on principles truly federal. The aim was to reconcile a Dominion-wide unity of action and control in all matters of common Canadian concern with local and independent control by each province of all matters of merely local or private concern in a provincial sense in each province. To this end the Act as now authoritatively construed assigns to the Parliament of Canada all such matters only as are of common Canadian concern, while the provincial jurisdiction embraces in each province all such matters as are of merely provincial concern."....

"Whatever is not thereby given to the provincial legislatures rests with the Parliament of Canada."

In other words, the residuary powers in Canada belong to the Parliament of Canada and not to the Provincial Legislatures.

222. In Australia the constitution adopted is different. The difference between the Canadian Constitution and the Australian Constitution has been pointed out by one of the greatest authorities on the Australian Constitution.

"One of the many matters", says Moore in his book ("The Constitution of the Commonwealth of Australia"), "in which the Commonwealth Constitution differs from the Canadian Con-

stitution is this—that while the British North America Act had to organise both the Dominion and the Provincial Governments, the Australian Constitution had not as any part of its object the framing of a government for the States. The principle of State autonomy has been carefully observed."

223. The Australian Chief Justice, Griffith—a Judge of great distinction—observes:

"The scheme of the Australian Constitution, like that of the Constitution of the United States, is to confer certain definite and specified powers upon the Commonwealth, and to leave the residue of power in the hands of the States. This is expressed in our Constitution by the language of sections 51 and 52 which confer the Federal power, and section 107, which provides that every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth, or withdrawn from the Parliament of the State, continues as at the establishment of the Commonwealth."

224. We may now deal with the position in India. The constitutional position with regard to residuary powers is embodied in section 104 of the Government of India Act, 1935, which is quoted below:

"(1) The Governor-General may by public notification empower either the Federal Legislature or a Provincial Legislature to enact a law with respect to any matter not enumerated in any of the Lists in the Seventh Schedule to this Act, including a law imposing a tax not mentioned in any such list, and the executive authority of the Federation or of the Province, as the case may be, shall extend to the administration of any law so made, unless the Governor-General otherwise directs.

(2) In the discharge of his functions under this section the Governor-General shall act in his discretion."

225. This section makes clear that the Indian Constitution, as it stands, follows neither the Canadian model nor the models of Australia or the United States. In cases where there is a conflict between the Federal Legislature and the Provincial Legislatures as regards the enactment of a law with respect to any matter not enumerated in any of the Lists of the Seventh Schedule to this Act, the Act vests the Governor-General with the power to declare, at his discretion, that the power shall be exercised by the Federal Legislature or by the Provincial Legislatures. The powers of the

Federal Legislature are catalogued in List I of the Seventh Schedule of the Act, whereas the powers of the Provincial Legislatures are similarly catalogued in List II. List III, making a departure from both the Canadian and Australian model, gives a list of 36 subjects in respect of which the Federal Legislature and the Provincial Legislatures have concurrent legislative powers. Since the enforcement of this Act, some cases have gone up to the Federal Court where the question of the interpretation of these Lists has been considered. In one such case [the Province of Madras vs. Boddu Paidana & Sons (Federal Law Journal, Page 61)] the Court held that "it is natural when considering the ambit of an express power in relation to an unspecified residuary power, to give a broad interpretation to the former at the expense of the latter, but where, as in the Indian Constitution Act, there are two complementary powers each expressed in precise and definite terms there can be no reason for giving a broader interpretation to one power rather than to the other. The American and Australian decisions should not therefore be blindly adopted in India." It may, however, be pointed out that if and when India becomes a Dominion or achieves the status of Independence otherwise, the provisions of section 104 may have to be revised.

226. We have stated above that until the scheme of Pakistan came to occupy the field, Muslim opinion generally seemed to demand that the residuary powers should be lodged with Provinces in order that the latter might have the fullest freedom to legislate in matters which were not covered expressly by the provisions enumerating the distribution of powers. We confess that on a point like this there is considerable room for difference. There are some of us who very strongly hold and insistently urged at the Indian Round Table Conference that, having regard to the peculiar conditions of India, it would be unfortunate if the residuary powers were placed in the hands of the Provinces and that a strong Centre was most necessary in India. We have, however, given the matter our most careful consideration and although it cannot be said that our constitutional convictions have undergone any change as a result of our discussions, yet, as a matter of compromise and for the sake of peace and amity, we have agreed to make the recommendation that in the future constitution of India the residuary powers may, in accordance with the Muslim view, be vested in the Provinces. We do trust that this concession to Muslim sentiment will have its effect and the constitution will be worked harmoniously and with due regard to the interests of all communities. We must note, however,

that Mr. P. R. Das, a Member of the Committee has expressed strong opposition to this view and has embodied his opinion in a Minute which is printed at the end of this report. It must be stated that Mr. Das's views are shared by a few other Members of the Committee.

227. We may here refer to the correspondence which has taken place between Mr. Jinnah and Mr. Gandhi on this subject and also to the evidence before us. It will be observed that throughout that correspondence Mr. Jinnah's standpoint was that 'there shall be absolutely separate and sovereign States'. It is obvious that from that point of view the question of residuary powers did not arise. On the other hand, Mr. Gandhi went the length of conceding that there shall be a treaty of separation which should also provide for the efficient and satisfactory administration of foreign affairs, defence, internal communications, customs, commerce and the like which must necessarily continue to be matters of common interest between the contracting parties. In saying this Mr. Gandhi appeared to imply that the powers of the Centre should be limited to a few subjects like those he mentioned. As Mr. Gandhi's position did not seem to us to be clear we put to him the following question:—

> "Have you any objection to the Provinces or States enjoying the fullest autonomy with residuary powers vested in them?" His answer was "None whatsoever."

228. We therefore understand Mr. Gandhi's position to be that, on the basis of a united India, he has no objection to the residuary powers being vested in the Provinces. That is also the unanimous opinion of a number of non-League Muslims who have favoured us with their views. We may note here that in all Federal Constitutions Judges of the Federal Court have played an important part in the development of the Constitution by exercising their power of interpretation, a power which has proved as important in its effects as Parliamentary legislation. We have no doubt that the same will be the case in India and signs are not wanting that the Federal Court at New Delhi, in the few cases which reached it after its establishment in 1937, has endeavoured to play a similar part.

229. We may point out that in our Recommendation No. 10 we have carefully borne in mind the demand of the Muslim community that matters allotted to the Centre should be reduced to a minimum. These matters will of course be subjects of common interest to India, as indicated in clause (a) of the Recommendation, such as foreign affairs, defence, relations with Indian States, Inter-unit communica-

tions, commerce, customs, currency, posts and telegraphs. It is also possible that, apart from questions of conflict between the different units which can be decided by courts of law, there may arise questions which are not of a justiciable character. In such cases we thought that it would be more convenient to vest the power of settlement in the hands of the Centre. If this is accepted, appropriate rules will have to be framed in that behalf. We have further provided that the Centre should have the power, in all necessary cases, to co-ordinate the legislation and administration of the different units.

230. The experiences of the recent Bengal Famine, the mishandling of the food situation, the inactivity of the Central Government at the early stages, the conflicts between Province and Province, and the mutual recrimination between the Centre and the Provinces in regard to the future arrangements ought to be a warning to all those, who in their enthusiasm for provincial autonomy would belittle the beneficient part which an alert Centre can play on such occasions. The timely action of Lord Wavell which saved a worse catastrophe is enough justification of the provision we recommend to prevent similar catastrophes in future. The well-being of Provinces on critical occasions cannot be sacrificed at the altar of theoretical autonomy.

231. Another subject, which we have placed in the hands of the Centre, relates to matters necessary for ensuring the safety and tranquillity of India or any part thereof. It is conceivable that trouble may arise in any unit which may involve other units, or a unit may pursue economic policy which may injure the economic life of another unit. The maintenance of the political integrity and economic unity of India as a whole is of paramount importance and only the Centre can be entrusted with it. Also in all unforeseen emergencies which affect more than one Province or which Provinces cannot tackle, the Centre should have power to play its part and rescue a Province or the Country from impending disaster. We feel that the work of revising and rearranging the subjects given in the three Lists in the Government of India Act involves detailed examination and is best left to the Constitution-making Body which will no doubt have at its disposal the services of experts with adequate knowledge of administration and federal law.

232. We shall now briefly deal with our recommendation No. 11 which relates to the Union Executive. Clause (b) recommends that the Constitution Act should provide for the representation of

different communities in the executive, which should, as far as possible, be a reflection of their strength in the legislature. We are making this recommendation, not without hesitation, purely in the interest of peace and amity and in order to allay the fears of the Muslims, though, as we have stated in another part of our Report, we regard these fears as ill-founded and exaggerated. We have also clearly stated in Chapter III that this concession should be confined to the Centre only. We think also that the concession of a statutory representation in the executive should be extended to the Scheduled Castes and other Minorities as well. We have recommended accordingly that the Union Executive shall be a Composite Cabinet in the sense that the following communities shall be represented on it, namely,

(1) Hindus, other than Scheduled Castes.
(2) Muslims.
(3) Scheduled Castes.
(4) Sikhs.
(5) Indian Christians.
(6) Anglo-Indians.

In recommending these sections of the population, we must not be understood to have ruled out altogether the inclusion in the Cabinet of other small communities like the Parsi community. The total strength of that community in India is 1,01,968,(i.e., .03 per cent of the total population) but it can justly claim the credit of being a pioneer in organising industries on modern lines. We need scarcely refer to the great national industry associated with the name of Mr. Jamshedji Tata. Similarly, in the political field, the great names of Mr. Dadabhai Nowroji, Sir Pherozeshah Mehta, Sir Dinshaw Edulji Wacha are the common heritage of Indian nationalism. Our resolution does not specifically mention Parsis, yet we have no doubt that, in any composite Central Cabinet, a Parsi representative will deserve a place.

233. It should be noted that, under our proposals, the Cabinet will be composite only in the sense that communities will be represented on it. But in the interest of the harmonious working of the Cabinet, we do not want to fetter further the Prime Minister's choice of his colleagues in the Cabinet. On the very small number of administrative issues involving nakedly communal rights, privileges and claims, all members of a community, to whatever political party they may belong, are generally at one. But we confidently look forward to the members of a cabinet, to whatever community they

may belong, being chosen on the basis of their political affiliations. The substitution, for separate communal electorates, of general electorates— albeit with reservation of seats for minorities—should, by compelling all candidates to seek support from all the communities included in a general electorate, help greatly in the emergence of real political parties each containing members of all communities and in the extinction of the frankly communal parties which so much foul the political atmosphere in India today. These considerations explain why we have deliberately used the word 'composite governments' instead of 'coalition governments.' It is easy enough to condemn our recommendation on the grounds that it proceeds on the basis of communal representation. It is not so easy, however, to suggest an alternative which would achieve the same end. Deplorable as it may seem, the communal point of view cannot at the present stage of our progress, be altogether ignored. We are full of hope, however, that the result of the different communities working together on a composite Cabinet will be to produce, in course of time, new conditions of greater confidence and trust which may eventually make such communal reservations unnecessary.

234. Clause (c) of recommendation No. 11 provides that the Cabinet shall be deemed to be duly constituted notwithstanding the absence from it temporarily of representatives of any of the communities mentioned in clause (a); and further that, where on account of a whole community refusing to join or remain in a cabinet, that community goes without representation therein, the vacancies may, pending the availability of members of that community, be filled by appointment of the members of other communities and the Cabinet commences or continues to function, provided it commands a majority in the legislature. It will be obvious that this is a provision against the possibility of any community adopting an intransigent attitude and thereby blocking the working of the Constitution.* The implication of the clause is clear that if the community which stands out changes its mind later and desires its representatives to join the Cabinet, suitable provision would be made for its inclusion in the Cabinet.

235. Clause (d) of the recommendation provides that the Cabinet shall be collectively responsible to the legislature. The normal condition of collective responsibility, no doubt, presupposes the formation as in England of a government consisting of members of the

* Since we adopted the above resolution the result of the Simla-Conference which failed because one particular communal body declined to accept the Wavell Plan has tended to fortify us in our recommendation.

same political party. It is, however, well known that though the types of responsible government in the Dominions differ in some material respects from the British type, it has been found practicable in spite of such differences for Cabinets as e.g., in Australia to work on the principle of collective responsibility. The difficulty of conforming to the British type of responsible government in a Federal constitution is well recognised, and we may mention that when the Australian Constitution was being framed considerable discussion arose on this question. The opinion of Sir Samuel Griffith, who afterwards became the Chief. Justice of Australia, is worth quoting in this connection:—

> "There are perhaps few political or historical subjects with respect to which so much misconception has arisen in Australia as that of Responsible Government. It is, of course, an elementary principle that the person at whose volition an act is done is the proper person to be held responsible for it. So long as acts of State are done at the volition of the head of the State, he alone is responsible for them. But, if he owns no superior who can call him to account, the only remedy against intolerable acts is revolution. The system called Responsible Government is based on the notion that the head of the State can himself do no wrong, that he does not do any act of State of his own motion, but follows the advice of his ministers, on whom the responsibility for acts done, in order to give effect to their volition, naturally falls. They are therefore called Responsible Ministers. If they do wrong, they can be punished or dismissed from office without effecting any change in the Headship of the State. Revolution is therefore no longer a necessary possibility, for a change of Ministers effects peacefully the desired result. The system is in practice so intimately connected with Parliamentary Government that the terms are often used as convertible...... In practice, also, the Ministers work together as one body, and are appointed on the recommendation of one of them, called the Prime Minister. And, usually, an expression of want of confidence in one is accepted as a censure of all. This is not, however, the invariable rule; and it is evidently an accidental and not a fundamental feature of Responsible Government." (Quoted by Quick and Garran in their Commentary on the Constitution of the Australian Commonwealth).

236. Clause (d) is intimately connected with clause (e). In order that the Executive Council may work as a Cabinet

it is necessary that there should be a Prime Minister. He will ordinarily be the leader of a party which, by itself or in combination with other parties, is able to command a stable majority in the legislature. Such majority will depend on his own personality and influence, and on the **political** character and composition of the legislature. Though the Legislature may contain some men of extreme and unaccommodating views, there will always be, we hope, a sufficient number of men in the Legislature prepared to take a practical view, sink differences, and work in co-operation with the Prime Minister so as to give stability to the Government. His task in a communally composed Government will necessarily be more difficult than otherwise. But these difficulties have to be faced. There is no reason to despair, we think, that leaders cannot be drawn from different communities, with enough personality and capacity for accommodation to carry with them their colleagues in the task of Government. Lord Morley in his 'Life of Walpole' described the Prime Minister as **primus inter pares,** and made the following observation about the British Cabinet system:—

> "The principal features of our system of Cabinet government today are four. The first is the doctrine of collective responsibility. The second mark is that the Cabinet is answerable immediately to the majority of the House of Commons, and ultimately to the electors whose will creates that majority. Third, the Cabinet is, except under uncommon, peculiar, and transitory circumstances, selected exclusively from one party. Fourth, the Prime Minister is the key-stone of the Cabinet arch."

We think that all the four conditions laid down by Lord Morley may well apply to the composite Cabinets we recommend. The application of the third might initially meet with some difficulty but, as Lord Morley himself points out that under uncommon, peculiar and transitory circumstances the Cabinet cannot be selected exclusively from one party. It will be readily admitted that such circumstances do exist in the peculiar communal situation in parts of India. How long these circumstances will continue cannot be foreseen. They should disappear when the different parties and communities in India learn to work on national lines, replacing present distrust and hostility with confidence and goodwill.

237. We are in favour of the creation of the office of a Deputy Prime Minister and also of a convention that these two officers—the Prime Minister and his Deputy—shall not be monopolised by any

one community. The appointment of a Deputy Prime Minister we think would inspire confidence in communities other than the one to which the Prime Minister belongs. In making this recommendation we are supported by the fact that similar arrangements, either by convention or usage, exist in other countries. In Canada, for instance, the following rule prevails:—

> "It has long been a custom that when one political party continues in power for two or three parliaments, if the speaker in one parliament is of British extraction, the next one shall be a French-Canadian. It is a rule also that the offices of Speaker and of Deputy-Speaker can at no time be held by men of the same race. If the speaker is a French-Canadian, the deputy Speaker, who is also chairman of committees, must be an English-speaking Canadian; for the rule of the house is that 'the member elected to serve as Deputy-Speaker shall be required to possess the full and practical knowledge of the language which is not that of the speaker for the time being." (Porrit, "Evolution of the Dominion of Canada.").

238. Clause (f) of Recommendation No. 11 implies that the Prime Minister, being the person able to command a stable majority and to form the government, will be called upon to select or appoint the other Ministers. The Head of the State will have no direct connection with this selection which will be left to the Prime Minister alone, so that the Ministers accord their full allegiance to him and look up to him for guidance and co-ordination. It will be most demoralising to the Legislatures and to the Governments, if individual members were permitted to approach the Head of the State and canvas appointments in the Government. This would be destructive of the influence of the Prime Mihister and of the principle of collective responsibility.

239. The alternative suggestion contained in the recommendattion, No. 11 consists of clauses (a) to (d). Clauses (a), (b) and (c) are the same as in the first alternative which have been discussed above. Clause (d) provides that the Cabinet shall be elected by the Central Legislature in a joint session by the system of the single transferrable vote, and the elected Ministers shall hold office for the duration of the legislature and the legislature shall elect from among the Ministers a President and a Deputy President who shall not both belong to the same community. This provision is based on the Swiss Model.

240. There is a school of thought in India which maintains that the parliamentary form of Government, depending for its stability upon the support of the legislature, is not suited to the peculiar conditions of India, and that, for that reason, an irremoveable executive at the Centre will be more appropriate. We put this question definitely in our Questionnaire as follows:—

Question 1, pt. 5.

"1. (a) What should be the nature and type of the provincial and central executives? Should it be parliamentary or non-parliamentary, removable or irremovable?

(b) Do you think it necessary to secure representation of different communities, and, if so, how would you achieve this end?"

The vast majority of persons from whom we have received answers favour the British type, but the Sikhs in their memorandum have pleaded for the Swiss type with suitable modifications. We have had considerable discussion on this question in our Committee and we are bound to record the fact that the vast majority of the members favoured the British type at the Centre, though a few including the Chairman favoured the Swiss type. Most of us are agreed that an irremovable executive with a President and a Deputy President will not suit the provinces. These have hitherto been accustomed to work on the British model of parliamentary government and we do not think that a violent departure from that model is either desirable or will be acceptable. Likewise the distribution of the population on a communal basis in the different provinces and the nature of the problems which usually arise there make the Swiss model totally inappropriate.

241. In pamphlet No. 3, Chapter VII, we have dealt exhaustively with the theoretical aspects of the several types of Executive Government which exist in the world including the views of Sir Reginald Coupland. We desire that that Chapter should be treated as a part of our Report.

242. We are bound to observe that since the time representative Government was introduced in India many decades ago, the Indian mind has been accustomed to the British type and indeed the whole of its education has familiarised it with that system more than with any other system. It is, therefore, easy to understand why there is such a decided and widespread tendency to favour that type. That type no doubt presupposes differences of political opinion based not on religious or communal considerations but on eoconmic interests.

Those who are opposed to the British model urge that the dominant feature of Indian life being the existence of communal and racial divisions, the British pattern of parliamentary government, based as it is on a large degree of homogeneity, is unsuitable and will not yield in this country those results which it has produced in England. The fact, however, cannot be overlooked that, in spite of the differences mentioned above and the consequent evils, the tendency to think in the larger terms of the nation has been asserting itself during the last 60 years in secular and economic affairs in an increasingly marked degree, though it may have recently received a set-back owing to the unfortunate promulgation of communal ideas in certain quarters. But the set-back is, in our opinion, artificial and temporary and it would be wise to avoid judging of the future in the light of this passing phase. We call it temporary and artificial because it is born of an agitation which has for its primary object the sharing of power to be acquired from a third party. There is just reason to hope that, when this object is achieved and the country settles down to constructive work and the different communities begin to co-operate in working a generally accepted Constitution, the old spirit of nationalism will again assert itself and oust the narrow sectarian spirit, the existence of which is widely deplored. Indeed, we feel that so far as the masses of the Indian people are concerned their economic needs, in the vast majority of cases, cannot be described in terms of Hinduism or Islam. For instance, the land laws or taxation laws in most provinces weigh with equal heaviness on the Muslims and Hindus. Similarly in other vital spheres of national life in the vast majority of cases the outlook of the Hindus, the Muslims, the Sikhs and the Christians, is practically the same and in cases, where there is a variation, calling for a fair adjustment of economic, educational and social conditions, the demand will have to be met. It is claimed that the Swiss model may secure stability to the executive, leading to its greater freedom from political intrigues and party factions; and that possibly this type, in so far as it secures an irremovable executive, may prove acceptable to the Indian States with hereditary Rulers.

Judiciary.

243. Part IX of the Government of India Act, 1935, deals with the Judicature. Chapter I of that part deals with the Federal Court which is a new court. It consists of 18 sections.

Federal Court

244. The qualifications for appointment as a Judge of the Federal Court are laid down in section 200 sub-section (3) which provides as follows:—

"A person shall not be qualified for appointment as a Judge of the Federal Court unless he—

(a) has been for at least five years a judge of a High Court in British India or in a Federated State; or

(b) is a barrister of England; or Northern Ireland of at least ten years, standing, or a member of the Faculty of Advocates in Scotland of at least ten years' standing; or

(c) has been for at least ten years a pleader of a High Court in British India or in a Federated State or of two or more such Courts in succession;

Provided that—

(i) a person shall not be qualified for appointment as Chief Justice of India unless he is, or when first appointed to judicial office was, a barrister, a member of the Faculty of Advocates or a pleader; and

(ii) in relation to the Chief Justice of India, for the references in paragraphs (b) and (c) of this subsection to ten years there shall be substituted references to fifteen years."

On a careful examination of this section, it will be found that there is nothing in its terms to prevent a non-professional Judge of a High Court in British India or in a Federated State from being appointed a Judge of the Federal Court. In other words, if a member of the Indian Civil Service has been for at least five years a Judge of a High Court in British India he will be eligible. As a matter of fact, it was only for a very short time that the services of an I.C.S. Officer who was a Judge of the Patna High Court were requisitioned in the Federal Court. No permanent appointment of a Judge belonging to the Indian Civil Service has so far been made. It may at once be pointed that there is a very strong feeling in the country, both amongst the members of the public and the professional lawyers, that there must be at least one court in India which should consist exclusively of Judges elevated from the ranks of the Indian bar. We do not think that in the Dominions members of the Civil Services are eligible for judicial office in their highest courts.

245. The Federal Court has both original and appellate jurisdiction. Its original jurisdiction has hitherto been practically in

abeyance for the simple reason that, under the terms of section 204 of the Government of India Act, 1935, that jurisdiction can be exercised only when there is a dispute between any two or more of the following parties, that is to say, the Federation, any of the Provinces or any of the Federated States, if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends. The only exception to this general statement was in a case between the United Provinces and the Governor-General-in-Council (reported in 2 Federal Law Journal, page 123) when the question arose as to whether the United Provinces Government or the Governor-General-in-Council was entitled to moneys realised on account of fines imposed by Criminal Courts under the provisions of the Cantonments Act, 1924

246. The Federal Court has, however, exercised appellate jurisdiction under section 205 which provides that "An appeal shall lie to the Federal Court from any judgment, decree or final order of a High Court in British India, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Act or any Order in Council made thereunder, and it shall be the duty of every High Court in British India to consider in every case whether or not any such question is involved and of its own motion to give or to withhold a certificate accordingly."

247. Dealing with the general question of the Federal Court, the Joint Parliamentary Committee observe in paragraph 322:

> "A Federal Court is an essential element in a Federal Constitution. It is at once interpreter and guardian of the Constitution and a tribunal for the determination of disputes between the constituent units of the Federation."

In paragraph 324 they describe the original jurisdiction of the Federal Court as indicated above and proceed to point out:

> "This jurisdiction is to be an exclusive one, and in our opinion rightly so, since it would be altogether inappropriate if proceedings could be taken by one Unit of the Federation against another in the Courts of either of them. For that reason we think that, where the parties are Units of the Federation or the Federation itself, the jurisdiction ought to include not only the interpretation of the Constitution Act, but also the interpretation of federal laws, by which we mean any laws enacted by the Federal Legislature."

As regards the appellate jurisdiction they say in paragraph 325 as follows:—

> "It is also proposed that the Federal Court shall have an exclusive appellate jurisdiction from any decision given by the High Court or any State Court, so far as it involves the interpretation of the Constitution Act or of any rights or obligations arising thereunder; but that no appeal shall lie except with the leave of the Federal Court or of the High Court of the Province or State, or unless in a civil case the value of the subject-matter in dispute exceeds a specified sum. In this case also we think that the jurisdiction ought to be extended to include the interpretation of federal laws. It is essential that there should be some authoritative tribunal in India which can secure a uniform interpretation of federal laws throughout the whole of the Federation."

We are bound to point out that under a substantial development of the Constitution the position of the Federal Court in India will have to be greatly strengthened. Not only should it be a court, as suggested above, consisting of exclusively professional lawyer judges but it should exercise a much wider jurisdiction both on the original side and on the appellate side, provided, however, that its original conception as an interpreter and guardian of the Constitution, and as a tribunal for the determination of disputes between the constituent units of the Federation is not departed from. Further we think that cases involving very difficult questions of constitutional law affecting the civil rights and liberties of the people have shown in recent years a remarkable tendency to increase. We feel that as the Constitution develops the increase of such cases will be still more marked. It will be for the Constitution-making Body to define the conditions under which cases involving constitutional questions relating to the civil rights and liberties of the people may directly go before the Federal Court on its original side. At present such appeals can only go there after long and protracted trials in subordinate courts leading up to appeals or revisions in the High Courts or possibly in some instances from decisions given by the Presidency High Courts which exercise original jurisdiction. The litigants have to wait for a number of years before they can see the end of the litigation and the costs necessarily are much heavier. On the whole we think that it would tend to greater satisfaction and less expenditure if cases of certain description involving important questions of a constitutional character are directly taken to the Federal Court.

248. We need scarcely point out a curious anomaly of the present provisions in the Government of India Act, 1935, viz., that there is no provision in the Act giving the Federal Court the power to entertain an application for special leave to appeal and the Federal Court stands committed to the view that it will not interfere with an order of a High Court refusing to grant a certificate under section 205 even in cases where the High Court has acted perversely in withholding the certificate. The Federal Court holds the view that, as it has no power directly to order the High Court to grant a certificate, it would not exercise that power indirectly by way of proceedings for contempt of court. We are strongly of the opinion that the Federal Court should be given by statute the power to consider whether leave to appeal to it has been withheld by a High Court on proper grounds. If it should come to the conclusion that leave has been refused improperly, it should have the power to grant special leave and to entertain the appeal. The Judicial Committee of the Privy Council possesses such a power and we see no good reason for withholding it from the Federal Court.

249. We may at this stage refer to another part of our Report which deals with the question of fundamental rights and the Minorities Commission. The reasons for our making these recommendations are stated in Chapter VII where matters affecting the minorities are discussed. There are, however, certain rights of the minorities relating to vital matters, e.g., education, the infringement of which may very well be justiciable i.e., capable of being determined by a tribunal. It is necessary expressly to provide that if any act of Government or any proceedings of the Legislature appear to the minority concerned to encroach upon its guaranteed rights and a controversy thereupon arises between the minority and the Government or the Legislature concerned, it should be open to the minority concerned to agitate the question directly before the Federal Court and to obtain its decision as to whether there has been a violation of the relevant guarantee. The protection we seek to give to the minorities will not be complete or effective without such a provision in the Statute. For this reason we should like to extend the jurisdiction of the Federal Court to matters affecting the guarantees given to the minorities in such matters. The limitations under which such a right is made enforceable at the instance of the parties concerned will have to be laid down with meticulous care by the Constitution-making Body, not overlooking the difficulties, legal and technical, involved in the question. In this connection we

may invite attention to section 93 of the British North America Act the principle underlying which may well be followed as a model with suitable modifications in drafting the legal povisions in this behalf.

250. We do not think it necessary to reproduce this section or the interpretation of it by the Privy Council in a celebrated case (Brophy vs. The Attorney General of Manitoba, (1895) Appeal Cases, page 202). It will be enough to say that the entire history of this section and the reason for its enactment were considered in that case.

251. It will, however, be useful to quote here the observation of a learned commentator ("Lefroy": "Canada's Federal System") about the scope of this section:—

> "It cannot be denied that to the provincial legislatures is confined the exclusive right of making laws in relation to education; and that they, and they only, have the right to establish a general system of education, applicable to the whole province, and all classes and denominations, provided always they have due regard to the rights and privileges protected by section 93 of the British North America Act, 1867. This section does not debar a province from establishing a national system of unsectarian education. Thus in City of Winnipeg v. Barrett, the Privy Council say: 'In their Lordships' opinion, it would be going much too far to hold that the establishment of a national system of education upon an unsectarian basis is so inconsistent with the right to set up and maintain denominational schools that the two things cannot exist together, or that the existence of the one necessarily implies, or involves, immunity from taxation for the purpose of the other."

252. We desire to point out that though we have recommended that the residuary powers should be lodged in the Provinces—which as stated above, is a material difference between the constitution we propose and the Constitution of Canada—the analogy of section 93 of the British North America Act which relates to education may well be followed, subject to necessary adjustments necessitated by our recommendation about the residuary powers. We desire to emphasise that the Canadian Constitution itself shows that some exceptionally vital questions, relating to the Minorities, can well form the subject of judicial decisions and we are of the opinion that that principle may be followed in India in relation to the

Minorities by endowing the Federal Court with powers of entertaining such matters and giving their decision thereon.

Supreme Court

253. As matters stand at present the Federal Court at New Delhi does not and cannot function as a Supreme Court of appeal in civil cases from High Courts in British India. There is no doubt that, when India has a self-contained Constitution of self-government, she cannot avoid having her own final court of appeal to deal with all civil appeals finally. The Committee is, however, divided in its views about the propriety of an immediate expansion of the Federal Court into a Supreme Court of appeal for the whole country and the opinion is strongly held by some members that such expansion should come only as a part of any free Constitution which India may obtain in the future and that the question cannot be settled independently of the constitutional status of India under the new Constitution. As the Committee's views are divided, we can express no positive opinion and we think that the Constitution-making Body, which will devise a complete scheme of the future Constitution of India, will be in a better position to deal with this question.

High Court

254. We shall deal next with the question of High Courts in British India. The relevant chapter in the Government of India Act, 1935, is Chapter II, Part IX, consisting of sections 219 to 231. It is not necessary for our purpose to trace at length the history of these High Courts excepting very briefly. It is well known that before the Crown took over the administration of India in 1858 there were Supreme Courts in the Presidency towns and the Company's Courts. When uniformity of laws had been established to a certain extent the quesiton of establishing High Courts, which would combine the jurisdiction and functions of the Supreme Courts and also of the Company's Court, was taken up and accordingly on the 6th of August 1861 Parliament passed an Act by which High Courts were established at Fort William in Bengal, in the Presidency of Madras and in the Presidency of Bombay. The Letters Patent of these three High Courts were issued separately on the 28th of December 1865 and they were in almost identical terms. Under section 16 of the Act of 1861, power was reserved to the Crown to erect and establish by Letters Patent a High Court of Judicature in the North Western Province, now known as the High Court of Judicature at Allahabad. The Letters Patent of the Allahabad High Court were issued on the

Letters Patent at Patna for the new province of Bihar and Orissa on the 9th of February 1916. Later, a High Court was established 17th of March 1866. Similarly, a High Court was established by by Letters Patent at Lahore on the 21st of March 1919 and the old Chief Court of the Punjab was abolished. The latest High Court to be established was at Nagpur on the 2nd of January 1936 with the result that the old Judicial Commissioner's Court was abolished. It may be pointed out that the Presidency High Courts of Calcutta, Madras and Bombay have original Jurisdiction, whereas the jurisdiction of the High Courts at Allahabad, Patna, Lahore and Nagpur is only Appellate or Revisional, though each one of these appellate High Courts possesses Extraordinary Original Jurisdiction. They also possess a limited Original Jurisdiction in Testamentary, Matrimonial and Insolvency matters and exercise such Original Jurisdiction as is conferred on them by the Indian Companies Act, 1913.

255. It will be for the Constitution-making Body to decide whether the Appellate High Courts which do not at present possess any kind of regular original jurisdiction should in future be endowed with such jurisdiction. Our own opinion is that the position of the Appellate High Courts requires careful strengthening and this cannot be done unless they are given the power to issue certain writs which the three Presidency High Courts mentioned above are empowered by law to issue.

256. We now take up the Constitution of the High Courts. Sub-section (2) of section 220 of the Act of 1935 enacts: "Every Judge of a High Court shall be appointed by His Majesty by warrant under the Royal Sign Manual and shall hold office until he attains the age of sixty years: Provided that

(a) a judge may by resignation under his hand addressed to the Governor resign his office;

(b) a judge may be removed from his office by His Majesty by warrant under the Royal Sign Manual on the ground of misbehaviour or of infirmity of mind or body, if the Judicial Committee of the Privy Council, on reference being made to them by His Majesty, report that the judge ought on any such ground to be removed."

(See Section 200(2) of the Government of India Act, 1935). As regards the qualifications of the Judges sub-section (3) of the same section provides:—

"A person shall not be qualified for appointment as a judge of a High Court unless he

(a) is a barrister of England or Northern Ireland, of at least ten years' standing, or a member of the Faculty of Advocates in Scotland of at least ten years' standing; or
(b) is a member of the Indian Civil Service of at least ten years' standing, who has for at least three years served as, or exercised the powers of, a District Judge; or
(c) has for at least five years held a judicial office in British India not inferior to that of a subordinate judge, or judge of a small cause court; or
(d) has for at least ten years been a pleader of any High Court, or of two or more such Courts in succession;

Provided that a person shall not, unless he is, or when first appointed to judicial office was, a barrister, a member of the Faculty of Advocates or a pleader, be qualified for appointment as Chief Justice of any High Court constituted by Letters Patent until he has served for not less than three years as a judge of a High Court."

257. We may here refer to the question of age at which Judges of the Federal Court and High Courts are required to retire. As regards the Judges of the Federal Court it is provided by section 200(2) that they can hold office until they attain the age of sixty-five years. We believe in England they are expected now to retire at the age of 72. Having regard, however, to the conditions of life in India and particularly to the difference of climate between the two countries, we think the age of 65 years prescribed by the statute for the retirement of the Judges of the Federal Court is appropriate. As regards the Judges of High Courts, Sec. 220(2) of the Government of India Act, 1935, provides that they can hold office until they attain the age of sixty years. We do not see any cogent reason for differentiation in this respect between Judges of the Federal Court and Judges of High Court and in our opinion the age of retirement in the case of Judges of High Courts should also be raised to 65. We condemn the practice of extending the term of Judges which has, in our opinion, a most demoralising effect. There are strong objections to a High Court Judge having any kind of expectation to secure a privilege from the executive Government.

258. Another question to which we may now refer is that of the maximum number of Judges for each High Court exclusive of its Chief Justice, Chief Judge or the Judicial Commissioner which has been laid down in the First Schedule of the Government of India (High Court Judges) Order 1937, and is as follows:—

The High Court at Madras	15 Judges
The High Court at Bombay	13 Judges
The High Court at Calcutta	19 Judges
The High Court at Allahabad	12 Judges
The High Court at Lahore	15 Judges
The High Court at Patna	11 Judges
The High Court at Nagpur	7 Judges
The Chief Court of Oudh	5 Judges
The Court of the Judicial Commissioner of Sind.	5 Asst. Judl. Commissioners.
The Court of the Judicial Commissioner of the North-West Frontier Province	2 Asst. Judl. Commissioners

259. In our Recommendation No. 13 we first recommend that there shall be a Supreme Court for the Union and a High Court in each of the units. Then in the second clause we recommend that the strength of judges in each of these Courts at the inception of the Union as well as the salaries to be paid to them shall be fixed in the Constitution Act and no modification in either shall be made except on the recommendation of the High Court, the Government concerned and the Supreme Court and with the sanction of the Head of the State, provided, however, that the salary of no judge shall be varied to his disadvantage during his term of office. In sub-clause (3) we recommend:—

"(a) The Chief Justice of India shall be appointed by the Head of the State and the other judges of the Supreme Court shall be appointed by the Head of the State in consultation with the Chief Justice of India."

"(b) The Chief Justice of a High Court shall be appointed by the Head of the State in consultation with the Head of the Unit and the Chief Justice of India."

"(c) Other judges of a High Court shall be appointed by the Head of the State in consultation with the Head of the Unit, the Chief Justice of the High Court concerned and the Chief Justice of India."

260. It is desirable, in our opinion, that when the provinces get full autonomy, the Constitution Act itself should fix the strength of Judges in the various High Courts. If the needs of the provinces subsequently outgrow the prescribed strength of the Judges, we have further recommended that the strength may be varied but that this variation should not be left to the legislature but

should be made on the recommendation of the High Court and Government concerned and also on the recommendation of the Supreme Court, which from its position of advantage as the highest court will be better able than any other authority to take a disinterested view of the matter. We further provide that, even when these conditions are satisfied, the sanction of the Head of the State should be secured. We have made a similar rule applicable to the salaries of the Judges of the Federal Court and High Courts. We have further recommended that the salary of no judge shall be varied to his disadvantage during his term of office.

261. Our main object in making these recommendations is to secure the absolute independence of the High Court and to put them above party politics or influences. Without some such safeguards, it is not impossible that a Provincial Government may under political pressure affect prejudicially the strength of the High Court within its jurisdiction or the salary of its Judges. If it is urged that the High Court and the Government concerned will be more or less interested parties in the matter, the intervention of the Supreme Court and of the Head of the State would rule out all possibility of the exercise of political or party influences. The imposition of these conditions, may, on a superficial view, seem to be inconsistent with the theoretical autonomy of the Provinces, but, in our opinion, the independence of the High Court and of the judiciary generally is of supreme importance for the satisfactory working of the Constitution and nothing can be more detrimental to the well-being of a Province or calculated to undermine public confidence than the possibility of executive interference with the strength and independence of the highest tribunal of the Province.

262. As Professor Keith points out in his book "The Constitutional Law of the British Dominions": "It is a fundamental principle in every Dominion that the judiciary should be enabled by reason of security of tenure to exercise fearlessly its functions. The essential function of the judges is to interpret the statute law of the territory and to expound—incidentally no doubt to extend—its common law, English in the Dominions in general, but French in Quebec, and Roman Dutch in an attenuated and sublimated form in the Union of South Africa....The rule of judicial tenure is in principle good behaviour, with, as a mode of removal, representations from the two houses of the legislature to the Crown or to its representative in the territory. Thus in Canada judges of the superior courts may be removed by the Governor-General on addresses from

the two Houses under the British North America Act, 1867, s. 99. There is no age-limit, so that resignation on incapacity has been enforced by the ingenious device of providing by Act for the cessation of salary on incapacity duly attested. Supreme Court judges by Canadian Act have like tenure, but retire at age seventy-five. In Newfoundland an address from the Houses to the Governor is the prescribed method; in New South Wales, Queensland, and Eastern Australia an address to the Crown; while in Victoria, South Australia, and Tasmania an address to the Governor, is required."

263. In recommending that the salaries of the judges should be fixed and should not be varied to their disadvantage after their appointment we have followed the existing provisions of section 221 of the Government of India Act, 1935.

264. As regards the question of the nature of the tenure and of the removal of judges for misbehaviour, we attach great importance to it in view of the anticipated accession of political power to the new legislatures. Under the Government of India Act, 1919, section 201, a judge of a High Court could hold office during His Majesty's pleasure. The position was, however, partially improved but not wholly in the Act of 1935. In this Act section 220(2)-(b) provides that "a judge may be removed from his office by His Majesty by warrant under the Royal Sign Manual on the ground of misbehaviour or of infirmity of mind or body, if the Judicial Committee of the Privy Council, on reference being made to them by His Majesty, report that the judge ought on any such ground to be removed." We venture to think that the tenure of Judges in India is still not the same as that in England where an address from Parliament initiates the proceedings. We do not wish to go further into the technical side of the question but we wish to draw attention to its importance. When the Government of India Bill was before Parliament, a question was raised as to whether it was possible for an elected assembly as such to petition for the removal of a judge, to which the reply of the Solicitor-General was: 'No, I did not intend that.' Upon a further question on the same point, the Solicitor-General replied as follows:—

> "What I intended to say was that there were provisions by which, in the event of a judge misbehaving, he could be removed by the Governor-General. Of course there is nothing to prevent anybody making representations drawing the Governor's attention to matters which he thinks he ought to consider...."

Further discussion followed, in the course of which Sir Samuel Hoare, the then Secretary of State for India, took part and observed that "It was thought better in the circumstances of India not to adopt the procedure that exists here. It was thought better to take the question of the conduct of judges out of the political atmosphere altogether, and to leave the question of dismissal of a judge to an impartial judicial body such as the Privy Council. My advice is that it would be unwise to alter that position."

265. In our recommendation on this subject, (No. 13 cl. 5), we have, for reasons stated by Sir Samuel Hoare, excluded the Legislatures from all participation in such proceedings and given the power of removal to the Head of the State if the Supreme Court, on reference being made to it by the Head of the State, reports that the judge ought to be removed on any such grounds as misbehaviour or infirmity of mind or body. We have given this function of investigation to the Supreme Court instead of to the Privy Council as our constitutional plan does not take the continuance of the jurisdiction of the Privy Council for granted.

266. In the case of a Judge of the Supreme Court we have provided that the Head of the State may similarly remove him from office on the ground of misbehaviour or of infirmity of mind or body, if, on reference being made to it by the Head of the State, a special tribunal appointed for the purpose by him reports that the Judge ought on any such grounds to be removed. For obvious reasons we do not consider it right and proper that the Judge's conduct should form the subject of discussion in the heated atmosphere of a political Assembly.

267. What exactly is covered by the phrase 'misbehaviour' has formed the subject of a large number of decisions but it is sufficient here to refer to what Todd says in his 'Parliamentary Government in England': "The legal effect of the grant of an office during 'good behaviour' is the creation of an estate for life in the office. Such an estate is terminable only by the grantee's incapacity from mental or bodily infirmity, or by his breach of good behaviour....Behaviour means behaviour in the grantee's official capacity. Misbehaviour includes, first, the improper exercise of judicial functions; second, wilful neglect of duty or non-attendance; and third, a conviction for any infamous offence, by which, although it be not connected with the duties of his office, the offender is rendered unfit to exercise any office or public franchise."

268. We now come to the method of appointment of Judges.

Under the existing law Judges of High Courts and of the Federal Court are appointed by the Crown. We have recommended that the Chief Justice of India should be appointed by the Head of the State. In this connection we would refer to our discussion of the phrase 'Head of the State' in Chapter VI. Similarly we have recommended that the other Judges of the Supreme Court shall be appointed by the Head of the State in consultation with the Chief Justice of India. The Chief Justice of a High Court shall be appointed by the Head of the State in consultation with the Head of the Unit and the Chief Justice of India, and the other judges of a High Court shall be appointed by the Head of the State in consultation with the Head of the Unit, the Chief Justice of the High Court concerned and the Chief Justice of India. We have deliberately placed the appointment of these Judges, including Judges of the Provincial High Courts outside the purview of party politics, and we make the same observations as above in justification of this provision notwithstanding its seeming interference with the theoretical autonomy of the Provinces.

269. Our recommendations do not deal specifically with the appointment of the subordinate judiciary. We leave this matter in the hands of the governments of the future which will exercise their powers under the vigilance of the various legislatures.

Recommendation 13(6) further provides

"As regards other matters connected with the appointment and functioning of the judiciary, the provisions embodied in Part IX of the Government of India Act, 1935, seem suitable with such modifications as may be required for being fitted into the framework of the new Constitution."

CHAPTER VI

INDIAN STATES — THE HEAD OF THE STATE

270. We have deliberately refrained from dealing in any detail with the future of Indian States, or the lines of their constitutional development. Constituted as our Committee was, there were no representatives of the Rulers and governments or of the people of the Indian States on our body and it would not have been fair on our part to reach final conclusions on such matters without having the advantage of discussion with persons who could speak now with authority on behalf of the Governments and people of the States. We had no doubt the advantage of having three members on our Committee, who had had valuable experience of the administration of important Indian States and of discussing, with their help, several problems bearing on Indian States but none of them could be said officially to represent the State with which he had been connected or its people. Suffering under this handicap, we have necessarily had to confine our recommendations affecting States to two or three matters of broad general policy and to state them in terms which involve no final commitment in respect of details.

271. The first of these recommendations of ours is Recommendation No. 5. It says:

> "Provision should be made in the constitution for the accession, from time to time, of Indian States as units of the Union on such terms as may be agreed upon. The establishment of the Union should, however, not be contingent on the accession of any Indian State or of any minimum number of Indian States. The Union should be brought into being and commence to function at the earliest possible date, even if no Indian State has acceded to it as a Unit by then."

By a Unit in this and other recommendations of ours, we mean a federated Unit. We contemplate, therefore, by implication that the Union need not be identical with the Federation and it may include parts of the country, such as the Unfederated Indian States, which are not Units in the sense indicated.

272. There is an existing Union of India, of which Indian States are as much a part as British India. The internal administrations of these two broad categories vary widely as between themselves and those of individual States vary even more widely, but they all come together at the Centre. British India is governed in the name of the Crown by the Governor-General in Council subject to the control of the Secretary of State and in accordance with the laws enacted by the British Parliament and by the Legislature in India. The internal government in States India is largely in the hands of the Rulers, though the quantum of sovereignty possessed by them varies with the size of the State and its history. None of them is an independent sovereign possessing the entire aggregate of sovereign rights, privileges and powers. Some of these are exercised over Indian States exclusively by the Paramount Power; others are shared by it with the Rulers. Indian States have no recognition internationally and the direction of foreign policy is exclusively in the hands of the Paramount Power and in the name of India as a whole. The defence against foreign and domestic enemies, alike in British India and in States India, is the ultimate responsibility of the Paramount Power. It has further the right and obligation of intervening in the internal administration of Indian States when such intervention is considered necessary for the benefit of the Ruler, his State or his people or of India as a whole. British Power thus is, in actual fact, as supreme over Indian States as over British India and its responsibility for good government therein as complete. This comprehensive Paramountcy jurisdiction was being exercised in India, in the name of the Crown, also by the Governor-General in Council under the control of the Secretary of State. Since 1st April 1937, however, it is exercised by the Governor-General with the designation of Crown Representative. Its exercise is, if at all, regulated by treaties, usage and political practice, the latter two of which are, it is claimed, as binding in their force as treaties or even as laws enacted by legislatures. We have adverted to these aspects of paramountcy as they are indicative of the fact that, even under the existing regime, States India and British India are united at a common centre for the administration of subjects which, under any unitary or federal Constitution for India as a whole, must be assigned to the Centre.

273. We are opposed to disrupting the unity that now exists between Indian States and British India as we are to the Muslim League demand for dividing India on the basis of the two-nations

theory. The people of the States generally are emphatically against such disruption. The Rulers as a body have not made any definite pronouncement on the question, but there can be no doubt that the large majority of them will not be willing parties to any such move. British India cannot afford to permit the breaking away of Indian States any more than she can allow the breaking away of any of the British Indian Provinces. It is worth quoting Sir Reginald Coupland in this connection:

> "An India deprived of the States would have lost all coherence. For they form a great cruciform barrier separating all four quarters of the country. If no more than the Central Indian States and Hyderabad and Mysore were excluded from the Union, the United Provinces would be almost completely cut off from Bombay, and Bombay completely from Sind. The strategic and economic implications are obvious enough. The practicability of Pakistan must be admitted, but the more the separation of the States from British India is considered, the more impracticable it seems. India could live if its Moslem limbs in the North-West and North-East were amputated, but could it live without its heart?" (Coupland, part 3, "The Future of India, pp. 151-2).

274. Our recommendation therefore is that the new Constitution should continue at least the unity that now binds the States and British India, though the bond may not be federal. Federation, we recognise, is a closer and a more intimate and efficient bond and we earnestly hope that, in due course and after the fullest consultation and investigation, all the States—a few individually but the great majority organised in groups and sub-federations—will have acceded as federated units of the Union. The inherent difficulties of bringing about such a happy consummation and the experience of the negotiations which Lord Linlithgow inaugurated and conducted between 1936 and 1939 do not encourage the hope that these consultations and investigations can be successfully concluded except with the exercise of infinite patience and after the lapse of several years. To hang up the federal Union of such units as are willing to federate until some State, or a minimum number of States, or the last hesitant State has agreed to accede would be a policy which is calculated to postpone indefinitely the elimination of foreign rule and the achievement of full self-government. We have therefore insisted that the Union of India should be established without any such waiting and that, while individual States might

take their own time to make up their minds as to whether they should accede as federated Units, all of them should, from the outset, be treated as in the Union, united with each other and with the rest of India through paramountcy at the Union Centre. That will only continue, for what we hope, will be a brief interval, the existing state of things with one important difference which we now proceed to discuss.

275. If this recommendation of ours finds favour, it will happen that, on the inauguration of the new Constitution and during the interval that we have referred to above, the Union of India will include a number of unfederated States. The Union as a whole will have full self-governing powers whether it is endowed with Dominion Status or becomes fully independent. It cannot, on this hypothesis, therefore, take orders from any outside authority. British suzerainty which is the mainspring of paramountcy jurisdiction today will have to cease to exist and the new Union Centre, i.e., the Federal Cabinet will come to exercise that jurisdiction over the unfederated States. Need Rulers of States raise any objection to this inevitable development? We sincerely hope they will not do so. If they show any hesitation in this connection, they will block the road to the early attainment of self-government by the country as a whole and antagonise their own subjects and the people of the rest of India. We would here invite attention to a passage in the Report of the Nehru Committee of 1928 which effectively disposes of this touching attachment to the retention of British suzerainty when it was first openly expressed on behalf of some of the Princes by their Counsel in a letter to the Law Quarterly Review and at a time when a **federation** including the States was not in contemplation. The Committee said:

> "The fourth proposition is that the Princes in making these contracts gave their confidence to the British Crown and nation; and the Crown cannot assign the contracts to any third party. The British Government as paramount power has undertaken the defence of all the States, and therefore to remain in India with whatever military and naval forces may be requisite to enable it to discharge that obligation. It cannot hand over these forces to any other Government—to a foreign power such as France or Japan; to a dominion Government such as Canada or Australia; nor even to British India."

"The necessary corollary to this is stated in the fifth proposition viz., that "The Crown can normally choose its agents. But

an agent cannot act when his interest may conflict with his duty. In all matters of common concern with the States—customs, railways, ports, the salt monopoly, etc.—there is always the possibility that the interest of British India may not be identical with the interest of a particular State. The Crown's duty is, or may be, to safeguard the interest of the State—particularly in case of a minority administration. Should the interest of the agent be given the chance of conflicting with the duty of the principal?" This if true is putting up an effective barrier against the progress of British India towards Dominion Status, now and for ever, for it is obvious that if these 'contracts' between the Indian Princes and the British Crown and nation are of a personal character India must always continue to be divided between what is British India and Indian States, and the British nation must always maintain adequate military and naval forces to discharge its obligations to Indian States." (Nehru Report, pp. 77-8).

276. In respect of the contention that the contracts traceable to the treaties between the Princes and Britain were of a personal nature and that Britain could not transfer her obligations to any other Power or even to British India, the Committee went on to say:

"The argument ignores the settled practice of the Government of India and, by invoking so-called first principles in determining the "legal relationship," it overlooks the hard and unchallengeable fact that from the early days of the Company it has been the Government of India and the Government of India alone which has dealt with Indian Princes and Indian States. It introduces an element of "personal confidence" between them and the British nation which is not easy to understand. It suggests that the past and present Governments of India which have so far exercised the power, said to be delegated from the Crown, were and are acceptable to the Indian princes and Indian States; but that the future Government of India, if it is to be of the Dominion type, will not be so acceptable. This in plain English means that the past and present governments of India were acceptable because they were essentially foreign in their composition and not responsible to the Indian electorate and that the future responsible Government of India would not be acceptable to the Indian princes because it will consist of their own countrymen and because it will be responsible to an electorate of their own countrymen. But supposing that this

is so, is there any authority for the proposition that when a "contract" may be performed by an agent the choice of that agent does not rest with the principal but with the other party to the '"contract". We have shown that so far the "contract" has been performed by white agents to the apparent satisfaction of the brown princes. On what principle of law, we ask, may that "contract" not be performed by brown agents to the equal, if not greater, satisfaction of the brown princes?" (Nehru Report pp. 78-9).

When these treaties were made, as Sir Reginald Coupland says, "it was assumed, by those who made them, that British rule in India would continue. Indeed they were made on the British side solely for the purpose of maintaining it. Manifestly the whole situation is very different when the British Government has declared its intention of bringing British rule to an end as soon as possible."

277. It would further be appropriate that paramountcy jurisdiction should in the new order of things stand transferred from the Crown Representative to the Union Cabinet, for it is the Central Government of India—the Governor-General in Council—which, from 1858 up to date has been implementing the obligations of paramountcy and this is so even after the powers pertaining to paramountcy came as a matter of law to be exercised by the Crown Representative. S. 145 of the Government of India Act, 1935, directs that the expenditure required for the discharge of the functions of the Crown Representative shall, on demand by him, be met out of Central revenues. **Per contra,** contributions payable by Indian States should under S. 146 be credited to such revenues though the right is reserved to His Majesty to remit at any time the whole or any part of such contributions! Under S. 148 payments due to States are stated to be a charge on the revenues of the Federation. Under S. 286, the Governor-General as head of the Central Executive has to make available to the Crown Representative such armed forces as he may require for use in Indian States. The net **additional** expense, if any, incurred on such use is declared to be debitable to the Crown Representative but this is meaningless as under S. 145 all expenditure of the Crown Representative has to be met out of central revenues. We have drawn attention to these provisions because they will work smoothly only so long as the present Government of India Act is in force and the Governor-General is also the Crown Representative. A federal Cabinet under Dominion Status is hardly likely, willingly, to find the money for financing expenditure incur-

red by a functionary for whose acts they cannot be constitutionally responsible. The friction that is bound to follow must lead to a breakdown and the Crown Representative will find himself powerless to function unless His Majesty's Government come to his rescue and provide the funds out of the British Exchequer. All these undesirable developments will be avoided if the Crown Representative's office is abolished and paramountcy is administered by the federal Cabinet, on the analogy of the practice which worked smoothly enough between 1858 and 1937.

278. During the period that the Governor-General in Council was the agent for the Crown for exercising its functions in its relations with Indian States, the portfolio of the department dealing with these relations—the Political Department—was held by the Governor-General. The functionary in the new Constitution corresponding to the Governor-General, whom we have designated Head of the State in our Recommendations, cannot possibly be in charge of any specific portfolio under Responsible Government and cannot act ordinarily except on the advice of Ministers. We have, therefore, in our Recommendation No. 12, provided for the inclusion in the Union Cabinet of a Minister to be in charge of this portfolio. He will be chosen by the Prime Minister in the same way as his other colleagues are chosen. The Cabinet will be collectively responsible to the Legislature for his policies and acts. The present Political Department suitably reorganised will advise him and carry out his decisions. It is our intention that, if any of the alternatives —which are referred to in paragraphs 292 and 293 **infra**—for confining, to certain Rulers of States, the choice of Head of the State, should become part of the Law of the Constitution, the relations of the Head of the State should be closer with the Minister in charge of Indian States than with others for that would conduce to smooth working of the paramountcy jurisdiction. For ensuring more effectively the exercise of paramountcy powers without giving room for reasonable dissatisfaction on the part of the States affected, we have recommended further that the Minister in charge of the portfolio shall have, associated with him, a body of Indian States Advisers, not less than three and not more than five in number. Rules will prescribe their tenure and qualifications and how and by whom they should be appointed. They should naturally be drawn from among persons, preferably subjects of Indian States, who have special knowledge and experience of such States, their peoples and their administrations. They will function in relation to the Minister

for Indian States in the same manner as the Advisers to the Secretary of State for India appointed under S. 278 of the Act do. The Minister should consult them on all important matters and obtain their concurrence in respect of certain specified matters to be scheduled in the Constitution Act. Where a Cabinet of a unitary or federal State has to exercise powers in, or over the Governments of, areas which are unrepresented in the Legislature of such State, the device of associating, with the Minister in charge of such powers, persons with local or specialised knowledge of such areas is, in our view, as good a device as can be thought of for ensuring that the powers are exercised with the maximum amount of satisfaction, in any case with the minimum amount of dissatisfaction, to the people and governments of those areas.

279. We would make it clear that the Federal Minister referred to in the previous paragraph is to be responsible only for what, in the Act of 1935 is, with avoidable vagueness, described as "the functions of the Crown in its relations with Indian States." This involved language is practically synonymous with paramountcy and paramountcy jurisdiction will be exercisable mostly over unfederated Indian States. In the case of federated states paramountcy has really no place and should "automatically disappear," especially if, as we hope will be the case, their entry into the federation is effected substantially on the same terms as the provinces. Sir Reginald Coupland has referred to one possible exception to this disappearance, namely, disputes as to the succession to Rulerships of States. His views are stated thus:

> "Under the present regime such a dispute is finally settled by the Paramount Power, i.e., by the British Government on report from the Crown Representative, who in turn has received a report from his political agent in the State concerned. The simplest method of adjudication under the new regime might seem to be to constitute a panel of leading Princes for the purpose; but it seems likely that they would prefer to retain the external authority of the British Crown. Such an arrangement on so domestic an issue could not be regarded as seriously infringing the national independence of India, and there seems to be no reason why the statesmen of British India or the British Government should refuse to acquiesce in it, though both parties might prefer a purely Indian arrangement." (Coupland, part 3, p. 154).

We would only point out that a purely Indian arrangement could easily be devised and successfully worked under our scheme. A panel of Indian Princes could well be constituted for deciding such disputes. We can see no reason why Indian Princes should prefer to retain the external authority of the British Crown whose decision will in reality be that of a Member of His Majesty's Government. We rather think that their preference is bound to be in favour of a decision by their peers and this preference will be greatly reinforced if the panel of Princes constituted for the purpose is presided over by the Ruler who has been elected or appointed to the office of Head of the State.

280. In relation to the future constitution of India, the Indian States might choose one of four alternatives:

(1) They might accede to an All-India Union as federated States.
(2) They might constitute a Dominion or Dominions of their own.
(3) They might retain their present status under British suzerainty.
(4) They might retain their present status with paramountcy transferred from Britain to India.

The second alternative as well as the third has been ruled out on the merits by the considerations we have set forth already. The first alternative would be the most satisfactory from every point of view but pending its acceptance by each individual State, it should have no hesitation in electing for the fourth. We are aware of the weighty objections which Rulers of States have pressed against the present working of paramountcy. A delimitation of the orbit of this jurisdiction, to the extent practicable, should, we consider, be attempted in the Constitution Act. The right of intervention in the internal administration of States should be defined within limits under the well-known categories of the benefit of the State, the welfare of its people and the good of India as a whole. Both in respect of federated States and in respect of unfederated States, the Constitution should guarantee their territorial integrity, though it might indicate the machinery and prescribe the procedure for the settlement of boundary alterations and disputes with the consent of the States or by arbitration. The Constitution should further recognise the existing governments of States.

281. Provisions in the Constitution Act of the nature referred to above might well replace the less precisely worded obligations

found in treaties of long ago. For the rest, we would emphasise that the new constitution should implement the principle underlying S. 285 of the Government of India Act, 1935, changing its language so as to make it more clearly indicate its purpose and fit it into the scheme of that constitution. The section to be inserted should contain the assurance that all treaties with Indian States will be binding on the Union in so far as they are in force at the commencement of the new Constitution. In coming to a decision as to how much of a treaty should be deemed to be in force, we would suggest that regard should be had to the following:

(1) The provisions, if any, in the Constitution Act on matters referred to in the treaty.
(2) Usage and political practice which have been acquiesced in over a long period of years and which have affected the interpretation of the terms of the treaty.[1]
(3) The inescapable effect of time and change of conditions.

"No compact can endure when, owing to the evolution of ideas, it has ceased to square with general 'conceptions' of right and wrong. In this sense, **rebus sic stantibus** is the implicit condition of every treaty."[2]

282. The Cripps Declaration said that "Whether or not an Indian State elects to adhere to the Constitution, it will be necessary to negotiate a revision of its Treaty arrangements, so far as this may be required in the new situation." Whatever may be the case in respect of federated States, a revision of existing treaty arrangements would seem desirable in the case of unfederated States in our Scheme, in view of the retransfer of paramountcy to the new Government of India, namely, the Federal Cabinet.

283. The stress we have laid on the maintenance of the geographical and political unity that now exists in India is responsible for two other recommendations of ours which affect Indian States. The first is recommendation No. 6 which provides that no Indian State which has acceded to the Union as a Unit thereof—in other words no federated State—shall be entitled to exercise any right of secession therefrom. The right of non-accession as a unit is implicitly recognised here. Our recommendation really means that every State would **ipso facto** be included in the Union and that we would recognise no right in any State to stand out of the Union altogether. It is given the option to remain an unfederated State in the Union or accede as a federated State of the Union. But once

(1) Mr. Amery's speech in the House of Commons, December 3, 1942.
(2) Coupland Part III, p. 147.

it has so acceded as a federated State, it can neither secede from the federation and revert as an unfederated State in the Union nor secede from the Union altogether.

284. The other recommendation is in the following terms:

> "10(c). All customs barriers between one Unit and another shall be abolished and there shall be free trade within the Union, provided that, where the abolition of existing customs barriers affects prejudicially the finances of a Unit, it shall be entitled to adequate compensation out of the revenues of the Union."

It is hardly necessary to adduce any elaborate arguments in support of this recommendation. It is difficult to sustain political unity amongst units which erect land customs barriers each against the other and have therefore not achieved economic unity. Free trade within the entire area of the Union we regard as fundamental to the rapid industrial development of India as a whole. We recognise, however, that many States cannot afford to do without their customs revenue and that their financial position will be seriously upset if their right to levy customs is surrendered. It is necessary, therefore, that in sush cases, adequate, even generous subventions should be paid to them annually out of Union revenues in order to enable them to maintain the financial equilibrium required for preserving their standards of internal administration. The recommendation as worded would apply only to federated States but its principle requires that it should be extended to unfederated States also, and we do sincerely hope that the Paramount Power—the Union Cabinet—will be able successfully to negotiate this matter with the unfederated States and obtain the agreement of all of them to this very necessary and urgent reform.

Head of the State.

285. According to the constitution embodied in the Government of India Act, 1935, all rights, authority and jurisdiction appertaining or incidental to the governance of India which, prior to the Act, had belonged to His Majesty are declared exerciseable by him. These include functions in relation to Indian States as well as all rights, authority and jurisdiction previously exerciseable in or in relation to any territories in India by the Secretary of State, the Secretary of State in Council, the Governor-General the Governor-General in Council, any Governor or any Local Government. His Majesty may exercise these powers himself except in so far as is otherwise provided by or under the Act or as may be otherwise

directed by him. Out of the group of powers which His Majesty may thus exercise, the Act empowers:

(1) the Governor-General to exercise all the powers and duties conferred or imposed on him by the Act, as well as such other powers, not being powers connected with relations with Indian States, as His Majesty may assign to him; and

(2) the Crown Representative to exercise such functions in relation to Indian States as His Majesty may assign to him.

The offices of Governor-General and Crown Representative are separate but it is noteworthy that the appointments to both have to be made under the Government of India Act which empowers His Majesty further to appoint one person to fill both offices. The two offices have been so far held by the same person who with the assistance of a department financed out of British Indian revenues has conducted his relations with Indian States subject to the provisions of the Act and to the non-legal conventions which are as binding as legal enactments and which have become established as a result of treaties, agreements and political practice. The common incumbent of the two offices discharges his functions in relation to Indian States and to British India as part of one responsibility, namely, the governance of India as a whole.

286. It seems desirable at this stage to draw attention to one point of importance. Parliament has recognised the title of His Majesty to exercise only the powers which either had belonged to him previously or had been exercised by one or other of his delegates or representatives in England or India. While these powers may be wider than what the Act confers on, or His Majesty assigns to, the Governor-General or the Crown Representative, it is possible also that there may be rights, authority and jurisdiction in relation to the governance of India which had not belonged to His Majesty or had not been exercised by his delegates and representatives but which may require exercise. In whom could such residuary powers be held to reside? The theory of "the indestructible sovereignty of the King in Parliament over the law throughout the King's dominions" would supply the answer that, under the existing constitution, these powers must be held to vest in the United Kingdom Parliament. But this answer will, as regards the new Constitution, be acceptable to no school of Indian Political opinion. All parties are agreed that that constitution should be based on Indian independence whether that independence takes the form of full Dominion Status within the British Commonwealth of Nations or of separation from the British system altogether. It should recognise

in law and in fact, the indefeasible sovereignty of the people of India from whom alone all powers of legislation and administration should be derived and in whom alone all residuary jurisdiction should vest. Such restrictions on the sovereignty of the people as may be necessary, for example, for implementing agreements and understandings in the field of international co-operation would be gladly agreed to by the people themselves, especially where other nations are prepared to submit to similar limitations.

287. We have pronounced ourselves emphatically against the division of India into two or more independent sovereign states having relations with each other only on the basis of treaties or other arrangements of an international character. We do not favour the creation in this country of a multiplicity of regional, communal or other federations each with a number of units and a centre of its own. The Unity of India is so vital a necessity for political strength, for full economic development and cultural expression and for the maintenance of the peace both of India and the world, that we cannot contemplate any kind of playing with it with equanimity. The continuance and efficient maintenance of this unity require a common centre for the whole country including the Indian States, able to function effectively and with strength everywhere in all matters requiring all-India action. Whether the effectiveness of such action in Indian States should be secured by their entering the federation on the same terms as the Provinces or by leaving them as they are and transferring to the new centre the paramountcy jurisdiction over them now exercised by the Crown Representative, or by the first method in the case of some States and by the second in the case of others—these are matters to which reference has been made already but there can be no doubt that they have to be carefully gone into at leisure and decided in full consultation with the Rulers and people of the States. The important thing that we would stress here is that the Union of India of the future shall be a single State comprising both federated units—whether Provinces or Indian States—and unfederated Indian States, and that no foreign power shall be entitled to exercise any kind of jurisdiction over the Union or over any of the federated units or unfederated States comprised in it. To permit unfederated States, after the coming into being of an Indian Union, to continue their present constitutional relationship with British Power would, as we have pointed out already, detract very materially from the independence of the Union and prevent, or in any case postpone indefinitely, the elimination of British domination over India both internally and externally.

288. Every State must have a Head and the Union of India cannot afford to dispense with the services of one. The Head of the State in India should be one expression of her unity. It would be a flat contradiction of this unity to split the Headship into two offices and, whether held by two persons or by the same person, to permit the incumbent or incumbents own responsibility for the proper discharge of their functions to two different authorities. The division of the Chief Executive authority in India between the Governor-General and the Crown Representative introduced for the first time in Indian administration by the Act of 1935 should, in our opinion, disappear from the new Constitution for an Indian Union. The Union will be a democratic federal State and the Head of that State —who will replace both the Governor-General and the Crown Representative and might be given a suitable indigenous designation, if necessary—should exercise such functions as are given to him only on the advice of his Federal Ministry, barring a few very exceptional cases, to be specifically mentioned in the Constitution Act, where discretion is given to him to act on his own or on advice other than that of the Federal Ministry (1) for avoiding political or communal graft, or (2) for taking the initiative in the national interest, especially in exceptional and fast moving situations such as exist at the present day. Under exception (1) will fall the suggestions we have made under paragraph 13 of our Recommendations as regards the alteration of the strength of High Courts and the appointment and removal of judges of the Supreme Court and the High Courts.

289. Though His Majesty is under the existing constitution the **de jure** head of the executive, the **de facto** head is his representative in India, viz., the Governor-General and Crown Representative (we omit reference to certain restrictive and controlling powers which the present constitution vests in certain authorities outside India). When India becomes a full Dominion, His Majesty will continue to be the **de jure** nominal head of the executive. But, whether under Dominion Status with a Governor-General or under a Republic with a President, whatever designations may ultimately be given to either, the real head of the State must be one who holds his office, and functions, in India. And as the authority of the Union of which he will be the Head will extend over Indian States, both federated and unfederated, it is **prima facie** desirable that his selection should be so made as to attract and retain the active loyalty of the States to the Union.

290. We do not consider that those of our politicians who will not accept Dominion Status but insist on unadulterated independence

have given sufficient thought to the important questions of who the Head of the new Indian Union should be, his functions, his tenure or the method of his selection. On the other hand, those who will be content with Dominion Status apparently take it for granted that the present state of things will continue in respect of the future Governor-General. The questions are, however, of very vital importance. As a body, the Committee has not been in a position to make definite recommendations in this regard but one of us has formulated a series of suggestions—some of them in the alternative. Without expressing our reaction to any of them on the merits—especially as they affect Indian States which are not as such represented on this Committee—we have no hesitation in submitting them for the careful and earnest consideration of the Constitution-making body. These suggestions are set out at length in our Recommendation No. 8. They have been formulated with due regard to the considerations adverted to in the preceding paragraphs and are further explained in the paragraphs that follow.

Clause (1) of the suggestions in Recommendation 8 provides for a Head of the State who shall be the repository of

(a) all such powers and duties as may be conferred or imposed on him under the Constitution Act, and

(b) such other powers as are now vested in His Majesty the King of England, including powers connected with the exercise of the functions of the Crown in relation to Indian States.

He will thus combine in himself the functions now exercised by the Governor-General and the Crown Representative, the division of powers between these two offices being done away with. He cannot, under any democratic constitution, be allowed to act arbitrarily or capriciously and the proviso to the clause, therefore, requires that he should in the exercise of his powers, conform to the traditions, usages and conventions which in all forms of democracy are considered binding on the constitutional head of a State. In other words the powers he exercises must be traceable to the Constitution and the manner of their exercises should be constitutional, that is, he should in every case act on the advice of his Ministers except when the Constitution specifically permits him to act on his own, or on other advice. The Constitution is thus supreme over the Head of the State and he may not exercise any powers outside the range of the two categories mentioned above. If there is need for his being given such extra powers, this could be done only by invoking constituent machinery and amending the Constitution. Powers not conferred by or under the Constitution must be held to reside in the people in

whom the sovereignty of the State will vest and they alone can part with any of them for exercise by others.

291. In spite of constitutional restrictions the influence of the office of Head of the State will be great enough to constitute a temptation for exploiting it for other than the highest good of the State. It is desirable to reduce to the minimum this temptation and opportunity for misuse of power in a high office. Clause (2) of Recommendation 8, therefore, provides that the tenure of the office shall be five years and that ordinarily no person may hold it for more than one term.

292. On the question of how the Head of the State is to be found, suggestion (3) of Recommendation 8 mentions three alternatives for consideration, the first two providing for election in a fully independent India outside the British Empire and the third providing for appointment by His Majesty in a Dominion Status Constitution.

293. The proposed Indian Union will **ex hypothesi** have jurisdiction over both British Indian provinces under appointed Governors with limited tenure and Indian States, whether federated or not, under hereditary Rulers. Assuming that the Union comes into being as a republic, it is unthinkable that the election of the President or Head of the State directly by a population of 400 millions will be practicable or can be expected to yield satisfactory results. It is, therefore, suggested that the election may be by a College consisting of a limited number of representative electors. The first alternative would constitute this College out of the members of the two Houses of the Union Legislature. Extreme democracy would demand that the candidature for the office should be left unrestricted and that no adult member of the population should be disqualified from standing. This is obviously too big a leap in the dark for a country in the present conditions of India. On the other hand, it will by no means be easy to devise a set of qualifications and disqualifications which would enable us to restrict the candidature to a limited number of desirable and acceptable men. Promoters in recent years of the idea of a Federal European authority were confronted with a similar problem and one solution suggested in this connection was that "the President should be one of the heads of the Member States and that he should be elected by a College of Electors composed of the heads —Kings and Presidents—of the Member States.* In the peculiar conditions of India with its large number of States under hereditary Rulers, it is worth serious consideration whether a solution on similar lines would not prove smooth and sound. In all the three proposals under Clause (3) of the suggestions in Recommendation 8, the res-

* *Vide* A Federated Europe by Lord Davies, p. 105.

triction of the candidature for the office to the Rulers of Indian States having a minimum population or revenue or both is mentioned. In the first and third it is mentioned as an alternative to unrestricted choice and in the second without any alternative. In the first, the members of the Central Legislature will elect either anybody or only one of the Rulers on the scheduled list; in the second, the Rulers on the scheduled list will constitute the electorate and elect one of themselves; in the third, where His Majesty will make the appointment on the advice of the Union Cabinet, the choice may be unrestricted or confined to the Rulers on the scheduled list.

294. A provision in the Constitution for the selection, by any one of these alternative methods, of a Ruling Prince as Head of the State, the appointment of States Advisers to assist the Federal Minister in charge of the functions in relation to Indian States and the definition, as clearly as possible, in the Constitution Act of the orbit of paramountcy jurisdiction under the broad categories of External Affairs, Defence and Protection, and Intervention are calculated

(a) to make it easier for the Rulers to agree to the Union Scheme, particularly the transfer to the Union Centre of the exercise of paramountcy powers from an Agent of the British Crown functioning outside the Union Constitution;

(b) to promote co-operation between Indian States and the rest of India and to speed up the pace of democratic development in the States so as to enable them to come quickly into line with the rest of India; and

(c) to achieve Indian independence from foreign rule without unnecessary loss of time.

295. The arrangements necessary for providing for the administration of an Indian State whose Ruler has to function as Head of the State for a period of 5 years are easily made.

296. Suggestion (4) of Recommendation 8 proposes that, in case the new Constitution is a Dominion Status one, the link with the British Crown is maintained and the Head of the Union is appointed by His Majesty on the advice of the Union Cabinet, the Secretary of State for India together with all the control which he or the British Cabinet exercises over Indian affairs should cease to exist.

297. Suggestion (5) of Recommendation 8 has reference to the headship of Units. All Indian States, being under hereditary Rulers, require no special provision. In the case of a Unit other than an Indian State, the Head of the Unit should, it is suggested, be appointed not by His Majesty as now but by the Head of the State on the advice of the Union Cabinet.

CHAPTER VII

MINORITIES AND FUNDAMENTAL RIGHTS

298. Realising the importance of the question of the Scheduled Castes and the Minorities in general we appointed two Sub-Committees, one to deal with the Scheduled Castes and the other with the Minorities generally. The Scheduled Castes Committee consisted of:

1. Sir S. Radhakrishnan (Chairman of the Committee)
2. Sir C. Ramalinga Reddy
3. Mr. N. M. Joshi
4. Mr. Tushar Kanti Ghosh
5. Sardar Sant Singh
6. Mr. J. Sivashanmugham Pillai (Scheduled Castes Representative from Madras)
7. Mr. Hem Chandra Naskar (Scheduled Castes Representative from Bengal)

299. At an early stage of the Committee's work the Chairman wrote to Dr. B. R. Ambedkar requesting that he might mention the names of some representatives of the Scheduled Castes who he thought could best represent their points of view and could work on the Committee. "You may be sure", said the Chairman in his letter, "that every latitude will be given to every one for the expression of opinion freely and we shall approach all questions relating to the Depressed Classes and others with every desire to appreciate their point of view and to secure their genuine interest." On the 6th of December 1944, Dr. Ambedkar replied, declining to nominate any member of the Scheduled Caste on the Committee, on the ground that the Committee was not satisfactory to him. He added "I am prepared to co-operate if you will reconsider the personnel of your Committee and eliminate from it every active and partisan person, and make it a small body who will do nothing more than report."

The Chairman in reply wrote on the 10th of December 1944 stating **inter alia** "I have taken good care to exclude men who belonged to either the Congress, the Muslim League or the Hindu Mahasabha. It would be impossible for me to find persons who have not, at one time or another, expressed some kind of opinion, but the point is whether these persons can approach the question now with a free

mind. There are four retired Judges and I have no doubt that they will play a great part in weighing documents and coming to certain conclusions."

300. We regret very much that this misunderstanding should have arisen before the Committee actually started its work and deprived the Committee of the co-operation of a distinguished leader of an important section of the Scheduled Castes like the Hon'ble Dr. B. R. Ambedkar. We have, however, tried to make up for this deficiency by studying his writings and speeches on the Scheduled Castes. In addition to this, some of us paid visits to the Provinces of the Punjab, Madras and Bengal. In the two latter Provinces, where the problem is much more acute than in other parts of British India, we met a number of the representatives of the Scheduled Castes and in Bengal we had the privilege of interviewing, at an informal gathering, 13 members of the different sections of the Scheduled Castes. Besides, several of our members had direct knowledge of the conditions in Bombay and in certain other parts of India.

301. As regads the Scheduled Castes, it needs no affirmation on the part of the Committee that it wholeheartedly sympathises with their position. It fully realizes that the religious and social disabilities to which they have been subjected have been innumerable and that the treatment these Castes have received in the past cannot be defended according to modern social ideas. We are, however, bound to affirm that there has been a large awakening of the public conscience in this matter during the last 20 years and the citadels of orthodoxy and prejudice have broken down in many parts of India. In the younger generation of the Hindus, brought under Western influences, there is, nearly everywhere, not merely an intellectual appreciation of the problem but also an active desire, often translated into action, to help to remove the disabilities and social tyrannies which these Castes have suffered. But apart from this, we may observe that it would be obviously wrong to judge of the whole country or of the general Hindu community by the standards prevailing in certain parts of India or in certain sections of the community. During the last few decades, many public leaders have espoused the cause of these Castes. Some even made it the sole occupation and ideal of their life, and in this regard, the achievements of Mr. Gandhi cannot be easily ignored, or misunderstood. Progress in a society, which until recently was socially static especially in respect of conceptions supposed to be based on mandates of religion, is bound to be slow. Nevertheless, it can be asserted with perfect truth that the Hindu attitude towards the Scheduled Castes today is in marked

contrast with the past, holding great promise of a rapid improvement in the future. Old restrictions imposed by caste are fast dissolving and the claims of social equality and justice are asserting themselves.

302. We may note here the achievements of popular ministers, many of whom came from the Brahman community. In the Province of Madras for instance where a Brahman Prime Minister was in power, no less than four measures were enacted:

(1) The Madras Temple Entry Act, 1938.

(2) The Removal of Civil Disabilities Act, 1938.

(3) The Madras Temple Entry Indemnity Ordinance, 1939.

(4) The Madras Temple Entry Indemnity Act, 1939,

all aiming at the removal of the disabilities of these classes. A member of these classes, an M.L.A. for 12 years under the Montagu-Chelmsford Reforms, rose to be a Minister in the Congress regime and another Member of that community, a graduate of the Madras University, became a Parliamentary Secretary. Likewise, in Bihar, a Minister and a Parliamentary Secretary were drawn from these castes. Similarly, in the United Provinces, a Parliamentary Secretary and in the Central Province, a Minister and Parliamentary Secretary came from these classes. In Madras, a special Labour Department exists which deals with needs of these classes, making use of large grants made for that purpose. For instance, in 1937-38 a sum of 10¾ lacs, in 1938-39 of 11½ lacs and in 1939-40 of 11.75 lacs were expended on the education and other ameliorative measures undertaken for the benefit of the Scheduled Castse. In Bombay, similar ameliorative measures were undertaken (see Coupland, "The Constitutional Problem of India," Vol. II, p. 144).

303. We may also refer to the well-known Proclamation on the question of temple entry promulgated in the orthodox Hindu State of Travancore by a conservative Hindu sovereign Prince acting on the advice of a Brahman Minister. The terms of this Proclamation are significant not only as giving relief to these classes, but as indicating the rapid changes which are silently occurring in conservative circles, in matters of religious faith. We, therefore, give below the whole of the Proclamation:—

> "Profoundly convinced of the truth and validity of our religion, believing that it is based on divine guidance and on all-comprehending toleration, knowing that in its practice it has throughout the centuries adapted itself to the need of the changing times, solicitous that none of our Hindu subjects should, by reason of birth, caste or community, be denied the consolation

and solace of the Hindu faith, we have decided and hereby declare, ordain and command that, subject to such rules and conditions as may be laid down and imposed by us for preserving their proper atmosphere and maintaining their rituals and observances, there should henceforth be no restriction placed on any Hindu by birth or religion on entering or worshipping at temples controlled by us and our Government."

304. Referring to the temple entry question Sir Reginald Coupland says in Part II of his book on Indian Politics, 1936-1942, at page 144:

"When the Congress Ministry resigned, no action had been taken to open temples under the first of these measures, but in October 1939 one important temple in the Madura district and some minor temples connected with it had been thrown open. In Bombay, where orthodox Hindu opinion is as powerful as in Madras, an Act was passed in 1938, enabling the trustees of any Hindu temple to declare it open to Harijans for worship; but no information is available as to whether any action has been taken under it. A number of administrative measures were also adopted by the Bombay Government—orders that Harijans should be permitted to use wells, attend schools, and so forth—but no steps seem to have been taken to see that they were effectively carried out."

This can hardly be said to be fair criticism, for, it is well-known that Congress Governments went out of office in 1939 and it would not be charitable to assume that if they had continued in office they would not have considered it a part of their duty to implement their legislative or administrative measures.

305. A Supplementary Memorandum on the claims of the Depressed Classes for special Representation submitted to the Round Table Conference on 4th November 1931 by Dr. Ambedkar and Rao Bahadur R. Srinivasan (See Vol. 3, R.T.C. Report, Second Session 1931, p.1409) deals with the special representation of the Depressed Classes.

306. Similarly, what was called the Minorities Pact, (for its terms see Vol. 3, R.T.C. Report, Second Session, 1931, appendix 3, p.1394) presented to the Prime Minister at the Minorities Committee of the Second Round Table Conference deals generally with the Minorities and contains certain proposals relating to the special claims of the Depressed Classes. We shall deal with the proposals relating to the Minorities in our discussion of the questions of the Minorities generally. Meanwhile we shall deal with the provisions

relating to the special claims of the Depressed Classes in this Memorandum and in this connection we shall refer to our own recommendations. Clause A of the Minorities Pact dealing with Special Claims of the Depressed Classes states as follows:—

> "The constitution shall declare invalid any custom or usage by which any penalty or disadvantage or disability is imposed upon or any discrimination is made against any subject of the State in regard to the enjoyment of the civic rights on account of Untouchability."

307. We need hardly say that we are in complete sympathy with this provision. We have developed its main idea in 8 propositions which we claim are in no way less fair or progressive than this Clause. We quote them below without any attempt at elaboration:—(Pamphlet No. 10, p. 11).

> "1. All citizens are equal before the law and possess equal civic rights.
>
> 2. There shall be no penal law, whether substantive or procedural, of a discriminative nature.
>
> 3. All citizens have the right to education, without any distinctions of caste or creed in the matter of admission into any educational institutions, maintained or aided by the State.
>
> 4. No person shall, by reason of his religion, caste or creed, be prejudiced in any way in regard to public employment, office of power or honour and the exercise of any trade or calling.
>
> 5. All citizens have an equal right of access to, and use of public wells, reservoirs, tanks, hostels, restaurants, parks and all other places of public resort. This shall not apply to religious institutions of any community.
>
> 6. No form of forced labour shall be permitted.
>
> **Special Fundamental Rights.**
>
> 7. No public authority shall, in carrying out the functions and duties entrusted to it under any law, recognize any custom or usage imposing a disability on any person on the ground that he belongs to a Scheduled Caste or a menial class.
>
> 8. No civil, criminal or revenue court shall, in adjudicating any matter or executing any order, recognise any custom or usage imposing any civil disability on any person on the ground of his caste or status."

We would draw particular attention to proposition No. 6 which lays down that no form of forced labour, or 'Begar' as it is called in the United Provinces and the Punjab, shall be permitted. This may

be resented in certain quarters long accustomed to its benefits but it will be clear to them, we hope, that under modern conditions it is intolerable that any person, howsoever humble or low his position in life, should be compelled to render free service to his landlord or zamindar.

The provision in proposition 9 (pamphlet No. 10, p.12) prohibiting discrimination in rules relating to personal purity will no doubt require to be supplemented by a sanction to and a penalty may have to be attached by law to a breach of this rule.

Representation in Legislature and Executives.

308. Our Scheduled Castes Sub-Committee recommends the adoption of adult franchise. We have already expressed our opinion supporting this in the altered circumstances of India. Our Sub-Committee also recommends the continuation of the method of election prescribed in the Poona Pact for another ten years, subject to the proviso that in the primary election for the panel, no candidate shall be deemed to be elected unless he secuers 20 per cent of the votes polled. This proviso was added at the instance of the representatives of the Scheduled Castes on our Committee.

309. We have given some of the leading features of the Poona Pact in another part of this Report. The full text may easily be referred to. Some criticisms which we regard as unfair have been made on this Pact since the date of its acceptance by Dr. Ambedkar who then represented the Scheduled Classes. It is said for instance that though the Poona Pact gave the Untouchables 148 seats, while the Prime Minister's Communal Award had only given them 78, but to conclude from this that the Poona Pact gave them more than what was given by the Award is to ignore what the Award had in fact given to the Untouchables. "If the Poona Pact" says Dr. Ambedkar, "increased the fixed quota of seats, it also took away the right to the double vote. This increase in seats can never be deemed to be a compensation for the loss of the double vote. The second vote given by the Communal Award was a priceless privilege. Its value as a political weapon was beyond reckoning. The voting strength of the Untouchables in each constituency is one to ten. With this voting strength free to be used in the election of caste Hindu candidates, the Untouchables would have been in a position to determine, if not to dictate, the issue of the General Election. No caste Hindu candidate could have dared to neglect the Untouchable in his constituency or be hostile to their interest if he was made dependent upon the votes of the Untouchables."

310. With reference to this criticism we would point out that all these sweeping assertions and arguments now urged **ex post facto** were available to Dr. Ambedkar at the time when he deliberately entered into this Pact at the Yeravada Jail with Mr. Gandhi. He bargained for a price for dropping the double vote and separate electorates which the Prime Minister's award had given and he obtained, after careful haggling lasting for several hours, nearly double the seats, which he was satisfied was an adequate compensation for what he has lost. We would further point out that there has been only one election since the Act of 1935 embodying the provisions of the Poona Pact was enforced and at that election the Poona Pact was acted upon. To generalise against the Poona Pact from one single election is neither fair nor safe. The loss of the double vote in the opinion of Dr. Ambedkar is apparently great or is likely to make Hindu candidates neglectful of, if not hostile to, the interests of the Depressed Classes. We have not been able to find any concrete instances of any such hostility on the part of the 'Caste-Hindus' in the actual working of the legislature or the administration of the various governments.

311. As we understand it (see Joint Parliamentary Committee's Report, p. 66, para 119) the Poona Pact sought to secure two things —first, that the Scheduled Castes were regarded an integral part of the general Hindu Community and should in future be treated as such; secondly, that after the primary election by them there should be joint election, which it was presumed would lead to the return of candidates commanding the confidence of both the general body of the Hindu electorate and the special electorate of the Depressed Classes. If this scheme could lead, as it was and is expected to lead, to the exclusion of extremists, unwilling to co-operate with one another, ever ready to foster fissiparous tendencies, it will be an advantage not against the underlying principle of the Poona Pact but in perfect consonance with it. It may be mentioned here that it is with a view to preventing any abuse of the panel system against the interests of the Scheduled Castes that our Scheduled Castes Sub-Committee adopted the recommendation that no candidate of the Scheduled Castes would be deemed to be elected in the panel unless he secured 20 per cent of the votes polled.

We believe that the Pact was sound in its essential features but if real defects in it are established calculated to defeat its main object, they may be removed consistently with its underlying principle of joint voting.

312. As regards the Supplementary Memorandum on the Claims of the Depressed Classes which, as stated above, was submitted by Dr. Ambedkar and Rao Bahadur Srinivasan to the Round Table Conference, it appears to us that the figures mentioned in it relating to their representation in the legislatures of Madras, Bombay, Sind and the Federal Legislature have been fixed arbitrarily. We would here point out that we have recommended adult franchise and in our Recommendation No. 9 dealing with the Union Legislature we have suggested that the strength of the Union Assembly shall be so fixed that there shall be, on the average, one member for every million of the population. We have already discussed the provisions of Recommendation No. 9 and we need not repeat here the arguments on the question of representation in the Union Legislature. We would only point out that if adult franchise is adopted, the number of representatives of the Scheduled Castes will considerably increase in nearly every province where the Scheduled Castes are to be found in large numbers.

313. The Scheduled Castes Sub-Committee has further recommended and we have adopted that recommendation that the representation of the Scheduled Castes in the Central as well as the Provincial Executive may be made commensurate with their numbers. This should give in our opinion an adequate and effective protection to the Scheduled Castes so far as their moral and material interests are concerned. We would in this connection refer to our Recommendation No. 11(b) in which we have provided that the representation of these communities (among them being the Scheduled Castes) in the executive shall be as far as possible a reflection of their strength in the legislature; and we would urge that these provisions must be read together with the other provisions to be found in our recommendations.

Representation in Services.

314. We now come to the question of representation in services. Our sub-committee has recommended and we agree with that recommendation, that the Scheduled Castes should be given representation in all branches of services in proportion to their population, and till their economic and educational level reaches the average standard of the whole of India, special concessions in the matter of age, education and other conditions, should be granted subject to the requirements of the efficiency of the services. The law as it stands (see section 298 of the Government of India Act, 1935) provides that 'No subject of His Majesty domiciled in India shall on grounds only

of religion, place of birth, descent, colour or any of them be ineligible for office under the Crown in India." That has always been the law in British India since, we believe, the Crown took over its administration directly in its hands in 1858. This very policy was embodied in Queen Victoria's Proclamation which we may quote here as follows:—

> "We declare it to be Our Royal Will and Pleasure that none be in any wise favoured, none molested or disquieted by reason of their Religious Faith or Observances; but that all shall alike enjoy the equal and impartial protection of the Law: and We do strictly charge and enjoin all those who may be in authority under Us, that they abstain from all interference with the Religious Belief or Worship of any of Our Subjects, on pain of Our highest Displeasure.
>
> And it is Our further Will that, so far as may be, Our Subjects, of whatever Race or Creed, be freely and impartially admitted to Offices in Our Service, the Duties of which they may be qualified, by their education, ability, and integrity, duly to discharge."

315. It is admitted on all hands that the educational level of the Depressed Classes is not high. As Sir Reginald Coupland points out: "In past years caste prejudice forbade to Harijan children the educational facilities enjoyed by the children of caste Hindus; but there were signs before 1937 that this particular barrier to Harijan advancement was rapidly breaking down. In the Punjab 'untouchability' in the educational field had become virtually an anachronism. In Bombay almost all the separate schools for Harijans had been converted into ordinary schools, and the number of Harijans admitted to ordinary schools had been steadily increasing. This latter process had been hastened in some Provinces by drastic Government action. In Bihar and Orissa and in Madras schools had been required as a condition of official recognition to accept Harijan pupils and to give them the same facilities (e.g. seats in front of the teacher and the blackboard) as other pupils. Provincial Governments had also granted special concessions to Harijan children—scholarships, exemptions from fees, free text-books and so forth—and attempts had been made, particularly in the United Provinces, to awaken an interest in education in Harijan communities. These methods of dealing with the problem were maintained and in some cases expanded under the Congress regime. The number of Harijan pupils in the schools rose by some thousands each year in all the Congress Provinces except Madras and Orissa. It was reported from Bihar in 1939 that Harijans

were being freely admitted to schools and other educational institutions, and the Bombay Government directed local authorities that separate schools for Harijans were only to be opened or recognised in future 'under exceptional circumstances.' There is reason for hoping that this progress will continue uninterrupted, for as we have pointed out above, public conscience has been aroused and no differential treatment will, in the present state of public feeling, be tolerated by those in whose hands political power may drift. We have accordingly recommended that, so far as the representation in the services is concerned, some special concessions in the matter of age, education and other conditions should be granted to the Scheduled Castes subject always to the requirements of the efficiency of the services.

316. The Scheduled Castes Sub-Committee has made certain proposals under the heading 'Suggestions for Rapid Advancement' at page 12 of pamphlet No. 10. The Sub-Committee first records its conviction that if the new scheme of compulsory education is enforced, these castes, i.e., Scheduled Castes will benefit immensely. We record our strong opinion that, in the interest of democracy itself and for the intelligent working of a democratic constitution, it is very necessary that the masses should be educated and primary education must be made compulsory and the State must be prepared to bear its cost. We remember the time when even Mr. Gokhale's resolution about primary education was strongly attacked both by officials and non-officials in the Legislative Council, but happily those times are gone and now there is a general demand that universal primary education on compulsory basis should be adopted. We sincerely hope that, in the post-war schemes which are under preparation, a scheme of compulsory education of the masses will receive a high priority. The objections to compulsory education are pretty well-known, but we think that the time has come when those objections should not be allowed to prevail and the State should adopt a courageous, generous and wise policy in this respect. We do not wish to enter into a detailed discussion of how slow the progress of primary education has been in the country and how colossal illiteracy still prevails. The Sub-Committee goes on further to say that, in all stages above the compulsory, students from these classes, if their parents earn less than Rs. 50/- a month should, if found suitable for higher education, be provided with free board, lodging and tuition for ten years; and that stipends and scholarships may be awarded to selected candidates to enable them to obtain higher training both in India and abroad. Even in the compulsory stages, it may be necessary to give financial

aid in some cases. This will of course mean expenditure for which it suggests that special provision should be made in both the Provincial and the Central Budgets, until the numbers of these castes in all the stages of education approximate to those for the whole country. The greatest need of the Depressed Classes and of the masses generally is education and there can be no doubt that, if these classes receive its full benefits, they will be able to protect themselves much more effectively than otherwise. Education, particularly enabling them to earn their living, will improve their economic condition and once they are educated and their economic condition has been substantially improved, many of the religious and social disabilities to which they have been unjustly subjected will disappear. They will then be able to assert their position and it would be impossible for higher caste Hindus to deny their claim to equal civic rights. It is unnecessary to enter here into a discussion as to the means to be adopted to give effect to these deas. This should be done by each government adopting, as far as possible, a common policy subject to such variation or modification as the local conditions of an area may require. This obligation has been recognised by the State under many modern constitutions. We may quote Article 132 of the Constitution of the Czechoslovak Republic which is as follows:—

> "**Article 132.** In towns and districts where a considerable proportion of Czechoslovak citizens belong to a minority as regards race, religion or language, and where sums of public money are set aside for educational purposes in the State or municipal budgets or otherwise, a due share in the allocation and use of such sums shall be accorded to such minorities, within the limits of the general regulations concerning public administration."

317. We lay the greatest stress on the necessity of adequate and sufficient safeguards for the protection of the Depressed Classes and to us it seems so obvious that these safeguards must be internal and not external, so that they can be successfully worked without reference to any outside authority.

318. Clause (b) of the recommendations of the Scheduled Caste Sub-Committee (see page 12 of Pamphlet No. 10) deals with some specific grievances of the Depressed Classes which were brought to our notice. It was pointed out that in various provinces there is land at the disposal of the Government which is cultivable but not occupied or fallow, and which is brought under cultivation under new irrigation projects. It was urged that a substantial portion of such land should be given to the members of the Scheduled Castes who

are landless agricultural labourers. The protection of the economic condition of the landless classes in agricultural areas and the removal of their grievances appear to us to be no less important than the condition of the tenants who have their grievances against the landlords in respect of matters like the insecurity of their tenure, high rents and illegal exactions. Legislation has in recent years been passed in the interest of the tenantry in various provinces. Such legislation has always formed the subject of controversy as it affects vested interests. It is outside our scope to discuss the details of such legislation but we desire to affirm our conviction that the demand of the landless classes to have, out of unoccupied and cultivable land at the disposal of the Government, sufficient provision made for their purposes is a genuine and just demand. While framing the new Constitution and in assertion of new ideas this proposal will have to be examined more closely. This is a class of legislation on which opinion on economic ground is bound to vary but with the broad principle laid down in clause (b) of the recommendation of the Sub-Committee we desire to express our agreement. In order to set at rest the apprehensions of the land-owning classes a limitation has been suggested that this distribution of land should be made out of the land which is at the disposal of the Government and which is not occupied or fallow and which is brought under cultivation through new irrigation projects. Similarly we have suggested that in the proposed distribution of land to demobilized soldiers, the claims of the members of the Depressed or Scheduled Castes should be given due consideration.

319. We may at this stage refer to some of the memoranda that we have received and to the authorities we have consulted. We shall first refer to a memorandum which we received from Mr. V. I. Muniswamy Pillay, ex-Minister, Government of Madras, Ootacamund, a Member of the Scheduled Castes. It is printed 'in extenso' at page 35 of our pamphlet No. 7. On many of the questions discussed above his views are practically the same as those expressed by us. For instance, on the question of the representation of the minorities in the services he says "As the Scheduled Castes are not fully represented in all the services I suggest that the Scheduled Castes be given special privileges such as age and educational exemptions for all Provincial and Imperial Services." As regards education he suggests: "Adequate provisions should be made in the annual budgets (Central, Provincial and Local Bodies) for the educational advancements of the communities. An allotment in the Central Budget should be made for special scholarships for technical and advanced

courses of study in foreign countries." In the economic sphere he suggests: "Most of the Scheduled Castes are landless agricultural labourers. Their conditions are in no way better than slaves. In this connection, I wish to point out to the Committee a practice obtaining in this Presidency. The agricultural landless labourers mortgage their services to the landlords under a system known as 'Muri Chitu' in Tamil Nad, and 'Qasi Gallu' in Andhra Districts. This system is also called 'Pannial Pathiram' or 'Admai Sasanam' in Tamil Districts. The worst aspect of the system is that the labourer commits not only himself but also his successors to service. I feel that the practice must be done away with. These labourers being economically weak are not in a position to demand a living wage for their service. Hence I recommend formation of Agricultural Labourer Wages Board, as seen in western countries, to solve this problem. Secondly, the Government has enough of waste lands and I recommend that these lands should be distributed among these people so that these people can become economically independent of caste Hindus. I suggest that a Social Security Scheme should be brought by the Government to improve the lot of these landless labourers as obtaining in western countries. Under the Social Security Scheme special attention should be given to children and women."

320. We have already referred to the fact that some of us, namely, the Chairman, Sir Jagdish Prasad, Secretary, and Dr. P. K. Sen, paid a visit to Calcutta and were joined there by Mr. N. R. Sarkar and Mr. Hem Chandra Naskar, who were also members of the Committee. On the 19th of March 1944 we received a deputation of 13 representatives of the Scheduled Classes. They were as follows:—

Members of the Deputation.

1. Mr. P. Roy, M.L.A.
2. Mr. Harendra Nath Dolvi, M.L.A.
3. Mr. K. P. Mandal, M.L.A.
4. Mr. P. Burman, M.L.A.
5. Mr. A. K. Majhim, M.L.A.
6. Mr. B. C. Mandal. M.L.A.
7. Mr. Mahendra Nath Deb, President, Sabha Sunder Samity.
8. Mr. Nagendra Nath Das, M.A., B.L., Secretary, Calcutta Scheduled Castes Federation.
9. Mr. Radha Raman Das, Secretary, Nadia Scheduled Castes Association.

10. Mr. Goshtebehari Mandal, Secretary, Rajbanshi Association.
11. Mr. Janki Ballav Roy, Secretary, Sundari Association.
12. Mr. Rajendra Chandra Mall Barman.
13. Mr. Krishna Chandra Haldar.

Mr. B. C. Mandal, President of the All-India Depressed Classes Association pointed out to us that there were 31 members belonging to the Scheduled Castes in the Bengal Legislative Assembly and one in the Legislative Council; and three Ministers and three Parliamentary Secretaries belonging to the Scheduled Castes. He thought that the representation was not adequate for according to the population they should have 50 seats. The Scheduled Castes numbered more than a crore.

321. At this stage Mr. P. Roy intervened and handed over a representation to us. He said that among the Scheduled Castes themselves there were three grades, namely, (a) Nam Sudras, who were found mostly in East Bengal; (b) Rajbanshi, who were found mostly in North Bengal; and (c) Bagdis. These three had a majority in the order mentioned and all posts and advantages were taken away by the first of these, namely, Nam Sudras, with the result that the other members of the Scheduled Castes had no advantage at all. He urged that provision should be made for the recognition of the rights of all classes of Scheduled Castes. They generally suggested adult franchise and said "We want joint electorate with reserved seats in proportion to population." Mr. Burman, M.L.A., however, objected to the continuance of the primary election according to the Poona Pact on the ground that it involved more expenditure.

322. We may here refer to a memorandum furnished to us by one of our colleagues, Mr. Tushar Kanti Ghosh:

> "We are not aware of any serious objection raised on behalf of the Depressed Classes that the Pact has worked to the detriment of their interests. For one thing the number of seats obtainable by the Depressed Classes was largely increased by the Pact. While the Communal Award contemplated only ten special seats for the Depressed Classes in Bengal, the Pact gave them thirty and at least one general seat has been won by them by virtue of their decisive majority in that constituency. We should, therefore, be justified in believing that the method laid down in the Poona Pact has served well the interests of the depressed classes, and no separate electorates for them are necessary or desirable. Again we feel that the Pact can attain its political and social object if it is implemented not only in letter but in the spirit of integration of the Depressed Classes as an honourable part of

Hindu society. Failing that, we are afraid, separatist tendencies which have been increasingly evident among the Depressed Classes in recent years, will grow and there will be no option to recognising them as a separate political entity. In that case their claim for separate electorate will gather force and will have to be allowed." * * * * *

"In order that they can pull their weight in the administration and the counsels of the nation the Depressed Classes should have adequate representation in the Central and Provincial Cabinets. This has been secured for sometime and at least in Bengal successive Ministries have contained a good number of representatives of the Scheduled Castes. The practice should be maintained and developed in the future."

After suggesting special measures for the educational and economic advancement of this class most of which have been recommended above, he proceeds to observe:

"In a large number of particular areas the Scheduled Castes live more or less as homogeneous bodies. There they throw up local leaders who manage well their social and day-to-day affairs. While there as yet little signs of cohesion among the Depressed Classes themselves and lack of unity between them sometimes appears greater than the lack of understanding between them and the 'Caste Hindus', it is advisable to encourage the growth of a collective sense of self-respect such as is increasingly and happily evident. It is likewise necessary to encourage the growth of leadership—political or other—among the Depressed Classes so that the movement for uplift may receive a spontaneous fillip from within themselves. No fear of sectarianism need deter us from allowing them to manage their own affairs wherever possible. Thus they should run their own schools, promote, if possible, their own co-operative societies, be helped to run Union Boards, Courts and Benches and Debt Settlement Boards, especially in areas where they are concentrated and of a recognisable numerical size. The fundamental thing is to adopt an attitude of total helpfulness to the Depressed Classes to promote their political, social, educational and economic well-being."

"It will not, however, do to approach the problem in an attitude of superiority. The root of the problem is economic; and even apologists of the system under which large sections of our people have to be classed as depressed, argue that they have been relegated to that position by reason of the low nature of the work they did. They contend that the unclean habits of

these classes have led to their alienation from Hindu society. These, however, are easily identifiable with a miserable standard of living which, and nothing higher, they could afford. We need not concern ourselves here with the origin of the system; what we must take note of is that the basis on which the system stood has long ceased to be operative. We must liquidate the Depressed Classes as such in accordance with the trend of the world movement towards social democracy; we have to welcome them as honoured and equal members of the community. There are among them sturdy men of the peasantry; there are skilled artisans the like of whom it is difficult to find elsewhere. With the spread of education, they are already contributing to the leadership of the nation as a whole. They are assets for the political and economic reorganisation which we visualize. There are, in their character, traits of virility which landlords in the past knew how to use for their own purposes and which may yet be annexed to our moral and physical strength. Not for nothing do the Muslims tend to draw the Depressed Classes into an alliance with them; not for nothing the Depressed Classes find much in common with the toilers among the Muslim masses. It is imperative for us to try to develop the inherent strength among the Depressed Classes for the well-being of our people as a whole. The barrier between the 'Caste Hindus' and 'Depressed Classes' must go for ever. If the Muslims are already being recognised as a vital factor in Indian life, so must the Depressed Classes--not as a separate entity, but to constitute a hopeful and powerful element in the politico-social entity that is India. Altogether we need thoroughly to reorient our outlook and to adjust our practical approach and plans of action accordingly."

We have considered it necessary to reproduce Mr. Ghosh's views on the question of the Depressed Classes as we think that he has expressed himself with knowledge and vigour, and adopted a thoroughly democratic attitude.

323. We may now refer to memorandum which we received from the All-India Depressed Classes League, Delhi, which is printed in our pamphlet No. 6, at page 1 and subsequent pages. It was submitted by Mr. Jagjivan Ram, B.Sc., M.L.A., ex-Parliamentary Secretary, Government of Bihar, and President, All-India Depressed Classes League. After referring to the evils of the caste system, with special reference to the condition of the Scheduled Classes, he observes:—

"The League stands for joint electorate with the caste Hindus because it does not want to perpetuate untouchability. But at the same time the League does not favour unqualified joint electorate where the caste Hindus will solely influence the election of the Scheduled Castes representative and as such the representative will be more of the caste-Hindus than of the Scheduled Castes. In the Poona Pact, the panel system was provided to allay this suspicion. But the process is not only cumbrous but does not provide any effective guarantee for the return of the real representative of the Scheduled Castes. It is obvious that a man securing the lowest number of votes in the Panel may be returned by caste-Hindus' votes and the man securing the highest number of votes in the panel may be defeated. This gives a chance to the caste Hindus or interested parties of theirs to set up dummy candidates and get them returned by caste Hindus' votes. This has been done in the last Assembly elections in 1937 in several provinces. The League is opposed to the panel system because it involves double election and does not ensure the return of the real representative of the Scheduled Castes. Hence the League demands joint electorate with the qualification that a candidate to be declared elected must secure at least 25 per cent of the total Scheduled Castes votes polled. This method should be applicable for elections in all elective bodies."

324. We take note of Mr. Jagjivan Ram's opposition to the panel system but we cannot help wishing that he had given concrete instances of the manner in which the panel system was abused in the several provinces in the last Assembly election in 1937. In the absence of this information, we are unable to endorse this criticism but we may mention here that while recommending the continuation of the panel method of election for another ten years, we have suggested a limitation which would meet his views, viz., that no candidate should be declared elected unless he secured at least 20 per cent of the total Scheduled Castes votes polled. The difference between his views and our proposal is only of 5 per cent which will not matter much. In answering our Questionnaire he has generally taken a line, which, in its practical aspects, is not very different from the detailed proposals made by our Scheduled Caste Committee and adopted by us.

325. We would here briefly refer to the Presidential Address delivered at the Ninth Session of the All-India Harijan Conference at Amritsar in 1943 which is printed at page 9 of Pamphlet No. 6. Mr. Khandekar, the President of the All-India Harijan Conference ad-

vises the Depressed Classes not to isolate themselves from the Hindus but to co-operate with them for their social, religious and political uplift. Certain resolutions were moved at this Conference. One of them was to the effect that they condemned the Government of India Act 1935 for having given weightage to the Muslims at the expense of the Depressed Classes and demanded of the Government to give them their share in proportion to their population, failing which the Depressed Classes would oppose any further constitution of India.

326. When some of us were in the Punjab in January last, we met certain representatives of the Depressed Classes, such as (1) Mr. Sukh Lal, ex-Municipal Commissioner, Karnal, and President of the Punjab Depressed Classes Association, (2) Mr. Mohan Lal, General Secretary, Punjab Provincial Depressed Classes, and (3) Mr. Sundar Singh, Secretary, Ravidas Dharmic Sabha, Lahore. They impressed on us their view that they wanted special provisions in the budget to be made for their educational improvement. They complained that they were treated very badly in Zamindari areas in Karnal and other districts, their girls were made to do *Begar* work and were not allowed the right to use wells, and that they were not allowed the right to purchase lands for agriculture. We have already expressed our views on the question of *Begar* and we strongly support their claim that there should be no discrimination against them in the matter of the use of wells and roads etc. As regards the right to purchase lands for agriculture we desire to say that as a general principle, and subject to local conditions, we are opposed to the imposition of any kind of disability in this behalf upon any class of people.

327. It will be noticed that in the views which we have given from the memoranda and statements of various representatives of the Scheduled Castes, nearly every one of them has laid stress on special educational facilities being given to them. In this connection we would like to refer to the Report by the Central Advisory Board of Education on Post-War Educational Development in India with which the name of Mr. John Sargent, Educational Adviser to the Government of India, is prominently associated. It is a document which requires very careful and sympathetic study and is in our opinion thoroughly nationalistic in its outlook. In the introduction to the Report the Committee make certain observations which we consider it necessary to quote here. They are as follows:—

"Apart from the extremely slow progress which had been made before the war, the present system does not provide the

foundations on which an effective structure could be erected; in fact, much of the present rambling edifice will have to be scrapped in order that something better may be substituted. A second possible misconception is that some half-way house of a less expensive type can be found between what now is and what this report advocates. The answer to this is that the minimum provision which could be accepted as constituting a national system postulates that all children must receive enough education to prepare them to earn a living as well as to fulfil themselves as individuals and discharge their duties as citizens. It also requires that those with the requisite capacity should be further trained to fill positions of responsibility in all walks of life. It has been suggested by some of those who shrink from the financial implications of going the whole way, that education might be limited to all the children in some places or some of the children everywhere or some of the children in some places only. Even if such a differentiation could be regarded as compatible with the claims of social justice, it is difficult to see how the selection involved could be fairly made. If there is to be anything like equality of opportunity, it is impossible to justify providing facilities for some of the nation's children and not for others. In the first place, therefore, a national system can hardly be other than universal. Secondly, it must also be compulsory, if the grave wastage which exists today under a voluntary system is not to be perpetuated and even aggravated. And thirdly, if education is to be universal and compulsory, equity requires that it should be free and commonsense demands that it should last long enough to secure its fundamental objective."

"A word of warning based on experience elsewhere is necessary against any proposal on economic grounds to apply compulsion only upto the end of the Junior Basis (Primary) stage in the first instance and then to extend it gradually upwards, as circumstances suggest or finances permit. It is true that this method has been followed in England and other countries but those who have had experience of it know how much inefficiency and waste it has entailed. It is significant that for this very reason, Education Authorities in England are still wrestling over 70 years after the passing of the Education Act of 1870 with the task of reorganising the lower storeys of the educational structure. Furthermore, basic education from 6-14 is an organic whole and will lose much of its value, if not so treated; in any case an education, which lasts only five years and ends about the

age eleven, cannot be regarded as an adequate preparation either for life or livelihood. If, as would appear to be the case, a universal compulsory system of basic education can only be introduced by stages, the progression should clearly be from area to area and not from age to age."

"It is in this spirit that we should like the entire question of education to be approached by the Government. Indeed, we cannot but express our regret that it has not been approached in this spirit hitherto but we are more concerned with the hopes of the future than with the regrets of the past. The report points out that "Apart from the comparatively few compulsory areas, attendance at school has been and still is on a voluntary basis. In 1936-37 there were 1,19,85,986 pupils on the registers of some school or other as compared with approximately 6,00,00,000 children in the 5-14 age-group. Of these children 51,88,601 were in Class I, 23,55,418 in Class II, 17,22,292 in Class III, 12,14,504 in Class IV and only 7,03,628 in Class V. The balance were in Middle Schools, including the middle sections of High Schools. Figures for previous years record a similar falling off. Attendance is of course better in some areas than in others but in regard to British India as a whole these figures mean that less than one out of every four children stayed long enough at school to reach the earliest stage, viz., class IV, at which permanent literacy is likely to be attained. The result is that money spent on the others (nearly 80 per cent) may be regarded as largely wastage."

"There is only one way to stop this wastage and that is to make education compulsory."

328. At page 224 are summarised the main conclusions of the Central Advisory Board among which is the following which is relevant to our present purpose:—

> "A system of universal, compulsory and free education for all boys and girls between the ages of six and fourteen should be introduced as speedily as possible though in view of the practical difficulty of recruiting the requisite supply of trained teachers it may not be possible to complete it in less than forty years."

We would only add that if any discrimination has to be made, it must be in favour of the Scheduled Castes so that the number of educated boys and girls among them may be substantially increased within less than the period envisaged by this report.

329. We may here refer to a note furnished to us by our colleague Mr. N. M. Joshi which is to the effect that "If the proposals made by the Committee for electoral purposes are not acceptable to

all sections of the Scheduled Castes, I shall accept any proposals which the majority of the representatives of the Scheduled Castes in the Constituent Assembly approve for that purpose."

Backward Classes and Aboriginal Tribes

330. The Scheduled Castes Sub-Committee deals also with the question of Aboriginal Tribes but we shall in the next few paragraphs,, deal not only with questions relating to Aboriginal Tribes but also with what are known as Backward Classes. Sir Reginald Coupland (Vol. III, p. 164) describes them as scattered over five Provinces in areas mostly tracts of forest and hill country covering some 120,000 square miles. Their population numbers about 12 milion. They are mostly at a premature stage of civilization, animists in religion and living under a traditional tribal system........ Their primary needs are: (1) protection for their lands and customary life from exploitation and disturbances (2) extension of social services, especially health and education, for which they cannot provide from their own exiguous resources and (3) sympathetic administration ...." Under the existing constitution these areas are grades as "wholly" or "partially" excluded areas.

331. The relevant sections in the Government of India Act, 1935, are sections 91 and 92 which are as follows:

"91(1) In this Act the expressions 'excluded area' and 'partially excluded area' mean respectively such areas as His Majesty may by Order in Council declare to be excluded areas or partially excluded areas.

The Secretary of State shall lay the draft of the Order which it is proposed to recommend His Majesty to make under this sub-section before Parliament within six months from the passing of this Act.

(2) His Majesty may at any time by Order in Council—

(a) direct that the whole or any specified part of an excluded area shall become, or become part of, a partially excluded area;

(b) direct that the whole or any specified part of a partially excluded area shall cease to be a partially excluded area or a part of such an area;

(c) alter, but only by way of rectification of boundaries, any excluded or partially excluded area;

(d) on any alteration of the boundaries of a new Province, declare any territory not previously included in any Province to be, or to form part of, an excluded area or a partially excluded area, and any such Order may contain such incidental

and consequential provisions as appear to His Majsety to be necessary and proper, but save as aforesaid the Order in Council made under sub-section (1) of this section shall not be varied by a subsequent Order."

"92 (1) The executive authority of a Province extends to excluded and partially excluded areas therein, but notwithstanding anything in this Act, no Act of the Federal Legislature or of the Provincial Legislature, shall apply to an excluded area or a partially excluded area, unless the Governor by public notification so directs, and the Governor in giving such a direction with respect to any Act may direct that the Act shall in its application to the area, or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit.

(2) The Governor may make regulations for the peace and good government of any area in a Province which is for the time being an excluded area, or a partially excluded area, and any regulations so made may repeal or amend an Act of the Federal Legislature or of the Provincial Legislature, or any existing Indian law, which is for the time being applicable to the area in question.

Regulations made under this sub-section shall be submitted forthwith to the Governor-General and until assented to by him in his discretion shall have no effect, and the provisions of this Part of this Act with respect to the power of His Majesty to disallow Acts shall apply in relation to any such regulations assented to by the Governor General as they apply in relation to Acts of a Provincial Legislature assented to by him.

(3) The Governor shall, as respects any area in a Province which is for the time being an excluded area, exercise his functions in his discretion."

332. By an Order in Council, No. 166 of 1936, issued on 3rd of March 1936, certain areas in the several Provinces of India were specified and designated respectively as 'excluded areas' and 'partially excluded areas' within the meaning of this Act. It is unnecessary for our purposes to set them out in detail.

333. In paragraph 67, p. 38 (footnote 2) of their Report the Joint Parliamentary Committee observe as follows:—

"**White Paper Proposal 66.**— There will be in a few Provinces certain 'Excluded Areas' (e.g., tracts where any advanced form of political organisation is unsuited to the primitive character of the inhabitants). These will be administered by the Governor himself and Ministers will have no constitutional rights to advise him in connection with them."

Again in paragraph 144, p. 80, they observe as follows:

"It is proposed that the powers of a Provincial Legislature shall not extend to any part of the Province which is declared to be an 'Excluded Area' or a 'Partially Excluded Area'. In relation to the former, the Governor will himself direct and control the administration; in the case of the latter he is declared to have a special responsibility. In neither case will any Act of the Provincial Legislature apply to the Area, unless by direction of the Governor given at his discretion, with any exceptions or modifications which he may think fit. The Governor will also be empowered at his discretion to make regulations having the force of law for the peace and good government of any Excluded or Partially Excluded Area, but subject in this case to the prior consent of the Governor-General. We have already expressed our approval of the principle of Excluded Areas, and we accept the above proposals as both necessary and reasonable, so far as the Excluded Areas proper are concerned. We think, however, that a distinction might well be drawn in this respect between Excluded Areas and Partially Excluded Areas, and that the application of Acts to, or the framing of Regulations for, Partially excluded Areas is an executive act which might appropriately be performed by the Governor on the advice of his Ministers, the decisions taken in each case being, of course, subject to the Governor's special responsibility for Partially Excluded Areas, that is to say, being subject to his right to differ from the proposals of his Ministers if he thinks fit."

334. These areas were originally called 'Backward Tracts'. As stated in the Indian Statutory Commission Report (Vol. I, p. 158) the Backward Tracts of British India cover an area of 207,900 square miles and contain a population of about 13 millions. They were declared 'Backward Tracts' by Notification made under section 52A(2) of the Government of India Act, 1919 and are included in a slightly wider category of "Excluded Areas."

335. Before the Montagu-Chelmsford Reforms these Backward Tracts were subject to special laws providing for simple and elastic forms of judicial and administrative procedure. Almost all the tracts were 'scheduled districts' under India Act XIV of 1874. It was the Simon Commission which recommended that the Backward Tracts should in future be called Excluded Areas and they should be transferred from the Provincial Governments to the Government of India. It will, however, be noticed that by the sections of the Government of India Act 1935 quoted above, the 'Excluded Areas' and 'Partially Excluded Areas' have not been transferred to the Government of India, though the name suggested by the Commission has been adopted.

336. We have received some memoranda on the question of the Backward Classes, e.g., one from the Madras Provincial Backward Classes' League. It is printed at pages 10 to 12 of Pamphlet No. 6 issued by this Committee. It states that "the Backward Classes are those communities of the Hindu Society who are educationally and economically backward and who are extremely inadequately represented in Public Services, Legislatures and Local Bodies. They are entirely different from the Scheduled Classes who as per the Government of India Act of 1935 enjoy certain privileges and concessions.

337. It is alleged by the Backward Classes' League that "the working of the Government of India Act of 1935 has been utterly unhelpful for the advancement of the interests of the Backward Classes who form the vast masses amongst the Hindus." We are not sure that we can agree with this indictment of the Government of India Act though it is clear to us that from the economic and social point of view the conditions of these communities leave much to be desired.

338. Another memorandum received from Mr. B. R. Manuharjee, President of the Kuleen Brahman Maha Sabha, Bharat, Lahore, after pointing out who the Scheduled Castes are, states that the Backward Classes who are numerous enough in any locality do not meet with those unpleasant experiences which are often the lot of the Scheduled Castes. For instance, they are not treated as untouchables nor forbidden entry into the interior of ordinary temples nor denied access to village wells where they are in sufficient numbers. They are denied the opportunity of better living by the upper classes. They have nothing in the 'record of rights' which they can claim as an absolute right. The result is that they have been turned into village menials who are under perpetual subjection and suppression. The Hindu Backward Classes number, according to him, 15 crores. After giving a long list of the various classes which may be included in the expression 'Backward Classes' the memorandum states that nearly every caste has a society or sabha of its own. They have held conferences in different parts of the country to discuss their programme. In his letter addressed to the Chairman of the Committee Mr. Manuharjee says that in framing a new constitution the miserable problem of the Backward Classes must always be kept in mind. We do not aim at segregation, but any attempt to ignore the cause of the Hindu Backward Classes will have the worst effect.

339. We need hardly say that we completely sympathise with their demand for economic and social uplift. As in the case of the Scheduled Castes it is absolutely necessary that provision should be made for their educational and economic advancement and wherever

candidates of these Classes are available for admission into Government services they should be freely taken subject to the fulfilment of some minimum qualifications and all necessary facilities should be given to them in this behalf.

340. The whole position with regard to the aboriginal and hill tribes of the Partially Excluded Areas in the Province of Bombay was examined at length by Mr. D. Symington, I.C.S., in a valuable report in which he made recommendations with regard to the distribution of land, rural credit, wages, education and Local Self-Government. In the Central Provinces and Berar the position of the Aboriginal Problem was examined in an exhaustive report by Mr. W. V. Grigson which also requires careful study. The Government of India also sent a Despatch to the Secretary of State, dated the 24th of December 1935 on the subject of the areas to be declared excluded or partially excluded under the Government of India Act, 1935.

341. There is thus a vast amount of material bearing on the subject. It is obviously impossible for us to refer to all this literature or to discuss the various points of view and recommendations made by various officers and experts on the question. We content ourselves with the hope that all this material will be considered by the Constitution-making Body, which will be in a better position than we are to draw up schemes for the uplift and betterment of the Backward Classes. It may be necessary to appoint special officers to look after the interests of such classes for a certain period and to make special provisions for their education and protection from undue interference with their religious beliefs. We think that it is very urgent that effective steps should be taken on a generous scale to improve their educational and economic condition and that all bars regarding their entry into local or political bodies and assemblies should be removed from their way. Once their educational position has improved, we have little doubt that the social and religious grievances from which they suffer at present will rapidly disappear.

342. A Minorities Commission, the establishment of which we have recommended and with the detailed constitution of which we shall deal later, may usefully be employed to keep a constant and vigilant watch over the interests of these Classes. As we have said in an earlier portion of this chapter, the administration of Excluded Areas and Partially Excluded Areas is under the present Constitution left to the Governor who can make regulations for the peace and good government of any such area in his province. These regulations have to be submitted to the Governor-General for his approval and the Governor is as regards any area in his province which for the time

being an excluded area to exercise his functions in his discretion. In any scheme of full-self-government these special powers of the Governor will have to be replaced by appropriate obligations placed on the Legislature and the governments of the future for discharging their duties in respect of these classes. We feel that it will be one of the main functions of the Constitution-making Body to suggest suitable provisions in this behalf.

Minorities

343. As stated before, we appointed a Sub-Committee to deal with the question of the Christians, the Sikhs and other non-Muslim minorities. This Sub-Committee is generally referred to in our proceedings as the Minorities Sub-Committee. It consisted of the following members of the Committee:

1. Raja Sir Maharaj Singh, Convener
2. The Metropolitan of India
3. Sardar Harnam Singh
4. Mr. B. L. Rallia Ram
5. Mr. Frank R. Anthony
6. Mr. Tushar Kanti Ghosh
7. Mr. Fazal Ibrahim Rahimtoola.

Raja Sir Maharaj Singh unfortunately could not take part in the proceedings of the Sub-Committee as he had to go to England on public duty. With the consent of the Chairman of the Committee he asked the Metropolitan of India to act as convener. Mr. Fazal Ibrahim Rahimtoola also could not take part in the proceedings. The Sub-Committee submitted its report which is printed as a part of Appendix No. 2. This report was considered by the General Committee and the latter Committee adopted many of their recommendations. We may point out that the General Committee has approved the ideas underlying the following provisions but it does not stand committed to the actual text. They are quoted here as follows:—

"1. In India there is freedom of religion and conscience.

2. All inhabitants of India shall have equal right to practise, in public or in private any faith, religion or creed whatsoever, and to assemble for the conduct of religious service in public, in so far as the exercise of these rights does not violate the law or public order and morality and they are exercised with due regard to the religious sentiments of other communities.

3. All inhabitants shall be entitled to establish, manage and administer at their own expense, religious, charitable and social institutions, schools and other educational establishments and shall have

the right to the free use of their own language and script if any and the free exercise of their own religion in such institutions.

Pursuant to this right, they shall be entitled to acquire, own, transfer, hold in trust movable and immovable property subject to the general laws.

4. All inhabitants shall be free to preach their religion, so far as they do not violate the law or public order and morality or offend the sentiments of other communities.

5. No inhabitant shall be deprived of his public rights by change of religion.

6. No citizen shall be subjected to any disability or prejudiced by religion, caste, creed, colour or sex in regard to public employment, in any office of power or honour or in the exercise of any trade or calling."

The abovementioned clauses deal with General Fundamental Rights. Then there were certain provinces which deal with Special Rights which were accepted by the general Committee. They are as follows:—

"Special Rights."

344. 1. It shall be the duty of the State to impart education to the children of a minority, of sufficient numerical strength, up to the stage of elementary education, in their own mother tongue and, where this is not possible, the State shall give adequate aid to such institutions as cater to this need of such minorities.

2. Liberty to establish and change one's place of dwelling is guaranteed in India, subject to public morality and health.

3. Freedom to choose one's occupation as well as to originate enterprises or industries of an agricultural, commercial, industrial or other nature is guaranteed in India. No person may be deprived of this right, save in accordance with and subject to the limits laid down by law.

4. There shall be no discrimination with regard to the continuance or fresh allotments of educational grants-in-aid to denominational institutions. These grants, as far as possible, shall be commensurate with the number of pupils receiving instruction therein.

This provision does not, in any way affect the guarantees given to the Anglo-Indians in this regard in section 83 of the Government of India Act of 1935."

345. We may here refer to certain special provisions for the Sikhs adopted by the Committee. They are as follows:—

"Special Provisions for Sikhs."

1. The rights of the Sikhs for the use of the 'jatka' meat should not be interfered with.

2. No law shall be enacted to restrict in any manner or to any extent whatsoever, the manufacture, sale, keeping and wearing of '**kirpans**' by the Sikhs."

We may now take up the cases of important individual minorities and we shall begin with the Sikhs. The Sikh case has been presented to us in great detail in a memorandum (Appendix No. 7) which is also printed at pages 15 to 25 in pamphlet No. 6. They also submitted an exhaustive memorandum printed separately as a pamphlet called 'Punjab the Homeland of the Sikhs'—and another Memorandum prepared by one of our colleagues Sardar Harnam Singh. Paragraphs 6, 7 and 8 of the memorandum (Appendix No. 7) run as follows:—

"6. The Sikhs maintain that the Punjab is and must remain inalienably the homeland the holy land of the Sikhs. The facts and figures on this point are so clear and overwhelming that nothing but sheer audacity can account for any claim to the contrary, including the fictitious claim that the Punjab is a Muslim province, or that it comprises one of the homelands of the Muslims. The Sikhs have more than seven hundred historic Gurdwaras in the Punjab with rich endowments, and undying memories of their Gurus, saints and martyrs attached to them. The Sikhs have set up and are financing over 400 educational institutions, colleges, schools, girls' seminaries and technical establishments, thus making a contribution towards the educational progress of the Province out of all proportion to their numerical strength and far in excess of any such contribution made by other communities, particularly the Muslims. The policy of, and the atmosphere prevailing in, these institutions, is more liberal and non-communal than that provided in any similar institution run by other communities.

"7. The major heads of the Provincial Receipts are land revenue, excise, stamps and water rates, which in themselves constitute seventy-six per cent. of the total revenues. Of these, it can be safely asserted that the Sikhs contribute more than forty per cent. One has only to refer to the difficulties experienced in the early colonisation days and see how the Colonisation Officers are full of praise for the Sikh colonists. By sheer dint of their hard work, the Sikhs have not only made barren and waste lands fertile but also have created an insatiable desire amongst the Punjabis for canal-irrigated land which has incidentally raised the price of land. The Sikhs own the best and

most fertile lands of the Province, the fertility of which is not so much the result of accident as the result of sustained labours of the Sikh cultivators themselves."

"8. In view of these considerations it is difficult to appreciate the Muslim claim that the Punjab is a Muslim province, particularly so when the non-Muslims own more than eighty per cent of the urban property and pay more than eighty per cent of Income-tax and Urban Property Tax in the Punjab. An overwhelmingly major proportion of the industrial enterprises, factories, mills, the insurance companies, film industry and business shop-keeping, trade and commerce is in non-Muslim hands, not so much again by accident but by virtue of their skill, industry and special aptitude. The cultural life of the province is primarily created and determined by impulses emanating from non-Muslim sources."

In paragraph 10 of the memorandum they point out that the Constitution Act of 1935 "gives to the Sikhs thirty-three seats in a House of one hundred and seventy-five in the Punjab, three seats in a House of fifty in the N.W.F.P., six seats in a House of two hundred and fifty in the Federal Legislative Assembly, if and when it comes into being, and four seats in the Council of State in a House of one hundred and fifty." The Sikh contention is that "this Act (Government of India Act, 1935) has reduced the Sikhs into complete ineffectiveness in all spheres of the political life of the country. No seat has been reserved for the Sikhs in the legislatures of the U.P. and Sind where they constitute important minorities or in other Provinces where they have considerable economic interests." Then they go on to say "The Muslims form about thirteen per cent of the population in the U.P. as the Sikhs in the Punjab. But the Muslims have been given thirty per cent of the seats in the United Provinces Assembly, whereas the Sikhs have been given only nineteen per cent seats in the Punjab Provincial Assembly. Similarly, the Sikhs in the N.W.F.P. though small numerically have historical and cultural claims on the Province. They were rulers of this province till recently and it is the Sikhs who have protected and preserved its integrity as a part of India. Again it is the Sikhs who have rescued and preserved whatever is left in the Province of its ancient and indigenous non-Muslim religious and cultural life. The Sikhs, therefore, are entitled to be treated on a much more liberal scale than they have been under the present Constitution. During the last ten years, minority representation in the Provincial Cabinet of the N.W.F.P. has been exclusively monopolised by the Hindus to the complete exclusion of the Sikhs." Then they go on to discuss the

position of the Sikhs in the United Provinces and other parts of India. We have set forth the Sikh point of view as far as possible in their own language without any comment, only to show the strength and depth of their feeling. We have no doubt that when the case of the Sikhs comes up for the consideration before the Constitution-making Body it will receive careful consideration.

In paragraph 19 of their memorandum (Appendix No. 7) the Sikhs set forth certain fundamental rights which are of a general character. We have already adopted two special rights which affect that community in our resolutions, namely, those which relate to 'jatka' and 'kirpan'.

346. On the political issues they say that they want a very strong Centre and suggest that the list of subjects for the Centre as well as for the constituent units should be exhaustively scheduled subject to the condition that the fullest opportunity should be given to the Constituent parts and regions to develop their own economic and cultural resources, and to manage their local affairs in their own way. They are definitely opposed to the Cripps Proposals—particularly to the provision of the 'Liberty Clause' in respect of provinces or states not acceding to an All-India Union. "Our objections to the Cripps Proposals" so runs the memorandum, "were clearly stated in our Memorandum submitted to Sir Stafford Cripps. These proposals took no account of the Sikhs either in the matter of separation of the Punjab from an All-India Union or in the Constituent Assembly to be set up for framing the new Constitution." They are strongly opposed to "granting liberty to units for non-acceding to the Union but, in case it is accepted by others, this power should be exercised by an absolute majority of sixty-five per cent." They are equally strongly opposed to "the right of secession from the All-India Union once it has been formed, but they favour the principle of re-alignment of the provincial boundaries to ensure self-expression and cultural autonomy to the various elements in India's national life." They further observe "so far as the Punjab is concerned, in any fresh alignment, it must be ensured that a substantial majority of the Sikh population remains compact in one unit and that all the important historic Sikh Gurudwaras, Shrines and places are included in that unit."

347. As regards the form of government they express their preference for the Swiss Model with suitable modifications.

348. With regard to their interest in the Army they say that they attach great importance to it. They have intimate connections wih the Indian Army, so much so that army service is their first

choice. They point out that "their strength in the army was nearly nineteen per cent up to 1920-21. It was deliberately reduced during the Akali Movement. During the last and the present world wars, when the doors of the army were thrown wide open to members of all communities and classes alike, the Sikhs have maintained their strength in the Defence Forces of the country. Sikh soldiers have won several awards for bravery and courage shown on the battle-fields. They wish to maintain their connection with the Defence Forces of India at least to the extent of their contribution during the last World War. The Sikhs attach great importance to this question and no solution of the constitutional problem will satisfy them unless their share in the Armed Forces is defined to the extent mentioned above."

349. As regards Services they say that "In the Central Services and those recruited on an all-India basis, the share of the Sikhs should be defined. By the Award of 1934, the share of the smaller minorities is fixed at eight and one-third per cent. The Sikhs do not get their legitimate share out of this portion. It is only just and equitable that this eight and one-third per cent should be split up between these minorities according to their population and importance and the Sikh share should in no case be less than five per cent of the services. In the Punjab, the share of the Sikhs should be fixed at twenty-five per cent., in the N.W.F.P. ten per cent, and an adequate share in Sind, U.P., Baluchistan and Delhi." They say that "Even if future recruitment is made at this percentage: it will take several years before the Sikhs will be able to attain their full share in the Punjab." An agreement was arrived at between the representatives of the minorities in our Committee as to the distribution of eight and one-third per cent in the services. Lastly we would point out that this memorandum was signed by not less than 30 leaders of the Sikh community among whom were Master Tara Singh, Sardar Sampuran Singh, Giani Kartar Singh, Sardar Surjit Singh Majithia, Rai Bahadur Sardar Basakha Singh and Sardar Bahadur Sardar Ujjal Singh, M.L.A., etc.

350. We now take up the case of the Indian Christian community. We may point out that that community was very strongly represented on our Committee. Apart from the Metropolitan, who is a Christian but not an Indian by birth, the community was represented by Raja Sir Maharaj Singh, C.I.E., Dr. John Matthai, B. L. Rallia Ram, Rai Bahadur, and later on in response to the demand that there should be a Roman Catholic representative we had the privilege of

having as a member of the Committee Mr. M. Ruthnaswami, M.A., Bar-at-Law, C.I.E., Vice-Chancellor, Annamalai University.

351. Mr. B. L. Rallia Ram has furnished us with a memorandum and in paragraph 4 of that memorandum he has asked for certain assurances for the minorities. We quote that paragraph below:—

"The assurances which the small minorities require are that—

(a) they would be adequately represented in the political and civic institutions of the country, and that they would not be kept out of these by religious prejudices of their compatriots;

(b) they will be able to exercise freely their citizenship without let or hindrance, in other words, by virtue of their manhood alone, they will be in the enjoyment of Fundamental Rights of mass;

(c) they would be given their due share in the Public Services, and would receive grants for the maintenance of their institutions, unless no such grants are given to any community;

(d) lastly, they would have the freedom to profess their religious faith, conduct such institutions as they may consider necessary, give such training as may be conducive to the teaching of religion and morality to their children and to their youth, to preach their religion to others and to secure new adherents.

At the same time, the religious minorities should recognise the limitations imposed upon such rights by the dictates of morality, public order, feeling and rights of others, and of common nationality.

(e) These assurances should take the form of 'constitutional safeguards,' as many of which as possible should be justiciable (enforceable by law). For the fulfilment of others, some suitable machinery must be devised."

As regards representation in political and civic institutions Mr. Rallia Ram says in this memorandum that "the system of separate electorates has done considerable harm to the country. It has been particularly pernicious in its working as far as some small communities, such as Indian Christian, are concerned. At the same time, so long as communal and sectional sentiments rule the Indian hearts, some kind of specific representation may be necessary for them. As a step forward, therefore, joint electorates should be introduced. Sir Sultan Ahmad in his recent book 'A Treaty Between India and the United Kingdom' has suggested a method of joint electoral bodies, each returning two members. The solution does lie in some such method." ....As far as Indian Christians are concerned, there is a section which desires the continuance of separate electorates. It may

be desirable to find a compromise formula. By way of an example the following suggestion is put forward:—

(i) Indian Christians may elect an electoral college equal in number to the total number of the members of the lower house of legislature; the persons elected should then form a joint electoral college with the members of the legislature for electing the requisite number of Indian Christians. Either each voter may exercise one vote only or a system of proportional representation by a single transferable vote may be introduced.

(ii) In the Central Legislatures, a similar electoral college may be formed, consisting of all the elected Indian Christian members of the Provincial Legislatures and equal number of others elected by the Central Legislatures for this purpose. Or the Provincial electoral college may also elect members of the Central Legislatures as well.

(iii) The number of seats allotted to Indian Christians in the Legislatures should **in no case** be less than their proportionate share by population ratio. If weightage is given to the minorities Indian Christians would be entitled to a large percentage as may be just and fair.

(iv) In every local body or civic institution Indian Christians should obtain representation provided that by number they are entitled to half a seat and provided further that the principle of representation by religious communities is applicable.

He then discusses the question of fundamental rights with which we have already dealt.

Coming to the services he admits that "the Indian Christians have a good representation at the present time in the Indian Civil Service and in the Army services but he suggests by way of a compromise that half the number of posts in all departments be open to competition; the other half being filled by nomination from candidates who are declared 'eligible' by being above the minimum standard laid down. The method of nomination should be used to remedy communal inequalities. Subject to the above provisions, appointments should be made, as far as possible, proportionately to the number of each community in the population, such adjustments being made by way of weightage as may be fair and just."

352. We may here refer to a memorandum received from the All-India Conference of Indian Christians, Lahore. This memo-

randum appears in its entirety at pages 26 to 33 of pamphlet No. 6. We do not wish to discuss each one of their recommendations as most of them have been referred to in the discussion of Mr. Rallia Ram's note. They support strongly in one of their resolutions the idea of convening a conference composing of various important parties and interests in India with the object of framing a constitution for India on a national basis.

353. We have also received a representation from the Catholic Bishops' Conference of India, Bangalore, and also a memorandum from the Nationalist Christian Party, Bombay. They are printed at pages 33 to 36 of pamphlet No. 6 issued by this Committee. The Catholic Bishops' Conference says generally that they are not asking for anything which they are not prepared to grant to other communities or sections of the population. The Nationalist Christian Party of Bombay in their memorandum suggest the establishment of independent Minority Commissions. We shall deal with this suggestion when we deal with the question of the Minorities Commission. They express their disagreement with the demand of the Muslim League for Pakistan as expressed in Mr. Jinnah's letter to Mr. Gandhi dated the 25th of September 1944. They prescribe certain percentage for the representation of different communities in the Federal Legislature and the Executive Government and state that if a settlement on the political issue cannot come about on the above basis, they would suggest a confederation in the manner detailed in their memorandum.

Anglo-Indians.

354. We now come to the Anglo-Indian community. We have received a long memorandum from the All-India and Burma Anglo-Indian and Domiciled European Association which has also been printed at pages 37 onwards of pamphlet No. 6. In their memorandum they observe as follows:—

"The Anglo-Indian has been guilty of affecting an attitude of aloofness to his Indian brother. By way of retaliation, our fellow Indians have regarded us with mistrust and unfriendliness. The European, unlike his counterpart in the French and Dutch Colonies, has treated the Anglo-Indian like a step-child. Biological and anthropological truths have been prostituted in order to lend support to the fallacy of race purity and race superiority. These baseless doctrines of race have not been without their effect on our fellow Indians and their attitude towards the Anglo-Indian Community. But we feel certain that the future will see the cementing of the friendliest relations between right-thinking Indians and the

Anglo-Indian Community." We share this hope. Then in a significant paragraph they observe as follows:—

"It should not be forgotten that the Anglo-Indian Community is a real racial minority. We cannot be blamed for the fact that our mother-tongue is English and our culture is a culture derived from the West. The history taught us in our schools has been British history. But, today, the Anglo-Indian Community has awakened to the fact that it is one of India's communities and that the hopes and aspirations of India are also our hopes and aspirations. With the proper reconstruction of our educational system, which this Association is, today, pleading for, will be swept away the harmful complexes which have made understanding between us and our fellow Indians difficult."

355. We need scarcely say that we appreciate these sentiments cordially. The Anglo-Indians demand fundamental rights and agreeing with Professor Coupland and Dr. Beni Prasad they urge that "all fundamental rights be made justiciable, i.e. subject to the final decision of the supreme court of the land. This court, 'shall be expressly empowered to declare **ultra vires** any legislative or executive act which contravenes the fundamental declaration of rights." They want liberty to use their own language as medium of instruction and they want proper allocation of public funds for their educational and charitable purposes. They also want the right to establish, manage and control charitable, educational, social and religious institutions, the maintenance of family law and personal status in accordance with the usage of their Community.

356. With regard to the representation of their community in the Legislatures, they make certain proposals (see page 39 of Pamphlet No. 6) too detailed to be set out here and proceed to observe 'the system of direct election applied to the Anglo-Indian Community which is cent per cent literate and more or less concentrated in urban areas will not be difficult and will certainly ensure the return of representatives to the Union Legislature, who command the confidence of the electorate.'

Similarly, with regard to the Executive Government they say "As claimed by the Muslim League the principle of a numerical democracy cannot be applied to a self-governing India. It will be much fairer to measure the Community in terms of its contribution to the State in services and material. They mention in detail the special services rendered by their community in certain departments of the Government, and the proportionately large contribution made by them to the Central and Provincial revenues and, on that basis,

they claim at least one seat on the Central Executive or Union Cabinet, one seat in each one of the units which include Bengal, the Madras Presidency, Bombay, Sind, and the Punjab respectively."

With regard to the services, they would ask for a special clause in the constitution safeguarding their percentages of employment in the Railways, Posts and Telegraphs and Customs services. This clause, they say, can be based on Section 242 of the Government of India Act, 1935, the class, character and remuneration of the posts, hitherto held by members of the Anglo-Indian community. It is impossible for us to go minutely into all their demands but we shall content ourselves with saying that the Anglo-Indian Community must, in our opinion, elect to be treated under the future Constitution as an integral part of the Indian Community and if they do so, they must receive adequate protection in all matters affecting their position in respect of, e.g. representation in the Legislature, the Executive and the Services, etc.

357. We may now refer to some of the answers they had given to our Questionnaire. After saying that they feel that everything reasonable should be done to allay misgivings on the part of different minorities, they mention details in support of their emphatic view that the concession of the Muslim demand of partition of India will not only not solve the minorities problems but will also be fatal to the best interests of the Mother Country and that after "the division of India the minorities problem would be as acute, perhaps much more acute, in both Pakistan and Hindustan than it is today."

"(2) The Muslim claim would lead to the Balkanising of India. A potentially powerful India will be emasculated as an international power."

"(3) The analogy of Europe does not apply, as India, unlike Europe, is a geographical entity undivided by real physical barriers such as are to be found in Europe. Further, in spite of differences, India has achieved a very definite ethnic unity."

"(4) The division of India will lead to the probability, if not the certainty, of war between Hindustan and Pakistan and to the propagation of narrow and fanatical economic and political ideologies."

358. We may here refer to a note which was furnished to us by Mr. Frank R. Anthony, one of our colleagues, who is President-in-Chief of the Anglo-India and Domiciled European Association, All-India and Burma. We give extracts from it below:—

"Special Reference to Educational and Service Needs.

I hope the report will make specific and emphatic reference to the special need of the Anglo-Indian Community with regard to the

continuance of educational grants, the quotas of employment in the Central Services. Both these subjects have been specifically guaranteed under sections 83 and 242, respectively, of the Government of India Act, 1935. Without these two subjects being specifically recognised the Anglo-Indian Community will be economically and culturally strangled. The Minorities Sub-Committee recognised our special case with regard to these two matters and accepted the need for specific guarantees.

The Constitution-making Body.

I feel that the Constitution-making Body, if framed on the lines proposed in the Cripps offer, should allow for four Anglo-Indian representatives in order that the interests of the Community, which are completely bound up with the Central Administration, are adequately represented. I feel that no decision, of the Constitution-making Body which affects a particular community, should be binding on that community unless it receives the assent not only of three-fourths of the members of a Constituent Body, but also of at least half the number of the representatives of that community.

Direct Election of Anglo-Indian Representatives.

It is vital to the Anglo-Indian Community that its representatives on the Constitution-making Body should be completely representative of the Community and enjoy its confidence. For this reason the election of these representatives by an electoral college, where voting is confined to the Anglo-Indian representatives and might easily be influenced by mala fide considerations, is considered most unsatisfactory. We, therefore, place the greatest emphasis on the vital need for direct election. Such direct election is not difficult as the Community is largely concentrated in urban areas.

Direct Election of Anglo-Indian Representatives to the Central Legislature.

In the same way, the Community feel that the system of election to the Central Legislature by the Anglo-Indian representatives in the Provincial Assemblies forming an electoral college is highly undesirable and will not guarantee the return of persons enjoying the confidence of the Community throughout the country. It is strongly and urgently felt that the representatives of the Anglo-Indian Community in the Central Legislature should be elected directly. These representatives will be arranged on a regional and not a provincial basis and the regional scheme will be so made that no qualified elector in the Community in British India will be prevented from voting.

Direct Election of Representatives to Minorities Commission

As regards the representative to the Minorities Commission, it is also felt that his return must be by direct election, so far as the Anglo-Indian Community is concerned.

The Home Department Resolution of 1934.

I must make it quite clear that the agreement with regard to the division of the service quota given to the Minorities in the Home Department Resolution of 1934 is not to be misconstrued by the Sikhs and Indian Christians into an agreement that there should be any immediate revision. My agreement was conditional on the other recommendations of the Committee being accepted as an interim arrangement. One of these conditions precedent, for instance, is the recognition in an interim arrangement of the Anglo-Indian Community to a place in the Central Executive.

Separate Electorates.

As pointed out in the Memorandum submitted to the Conciliation Committee while general electorates represent the ideal, so far as the Anglo-Indian Community is concerned, there is a very special and real case for separate electorates. The Community is cent per cent literate and its elections have been characterised by the absence of the manipulation and malpractices all-too-commonly associated with elections by a general electorate."

359. It may be useful to refer in this connection to section 242(3) of the Government of India Act, 1935, which runs as follows:—

"In framing the rules for regulation of recruitment of posts in the customs, postal and telegraph services, the Governor-General or person authorised by him in that behalf shall have due regard to the past association of the Anglo-Indian community with the said services, and particularly to the specific class, character and numerical percentages of the posts previously held in the said services by members of the said community and to the remuneration attaching to such posts."

This sub-section really gives effect in statutory form to the resolution of the Government of India dated the 4th of April 1934. We have no doubt that when the Constitution-making Body applies its mind to this question, it will carefully go into all these provisions of the law and the demands of the Anglo-Indian Community. As we have said above we should be very glad if the position of the Anglo-Indian community was definitely recognised as an integral part of the Indian community and adequate facility given to them

for their educational and economic uplift. As regards their representation in certain services in which they have hitherto been always represented, while we recognise that they have for long been connected with the Railways, Posts and Telegraphs and Customs, we feel that the question must be approached from a larger point of view and account must be taken not merely for their representation in these particular services but in the services generally, of their capacity for employment in other branches of the services and of the claims of other communities also. We hope a just decision will be arrived at by the Constitution-making Body. It is far from our intention to inflict any injury upon this community. We must not, however, be understood definitely to favour their exclusive or excessive representation in any particular service or their exclusion from any other service for which they may be qualified.

Parsis.

360. We have in an earlier portion of this report expressed our opinion with regard to the Parsis—a community which though very small has substantially contributed to the economic development of the country and produced some leaders of great distinction in the political field. We certainly would like this community to be represented adequately in the Legislatures, the Executive Government, the Services, and in the Constitution-making Body.

Budhists.

361. When some of us were in Calcutta, the following gentlemen representing the Budhist community interviewed us:—

1. Venerable Visuddhananda Mahátshaiva, High Priest and President, Bengal Budhist Association;
2. Mr. Bhupendranath Mutsuddi, B.L., Advocate, Alipore;
3. Mr. Sachindranath Mutsuddi, B.L., Pleader;
4. Revd. Vivekananda Bhikku; and
5. Dr. Arabinda Barua, M.A., Ph.D., Barrister-at-Law, General Secretary, Bengal Budhist Association.

They told us that the Budhists were fairly advanced in education, including English; they were mostly to be found in the Chittagong Division, their main occupation being agriculture. They wanted representation in the Legislature and in the Services. They complained that the European population, though less than theirs, had obtained four seats in the Legislature. They also complained that the Indian Christians had got two seats while they had got none.

The material before us is not sufficient to justify our making any definite recommendation but we express the hope that their views and interests will also be taken into consideration by the Constitution-making Body.

362. We would like to quote here the concluding portion of the note furnished to us by one of our colleagues Mr. Tushar Kanti Ghosh on the question of the Sikhs, European British Subjects or British Subjects of European domicile, Anglo-Indians and Indian Christians. That portion of Mr. Tushar Kanti Ghosh's memorandum runs as follows:—

"**Sikhs:** The problem is mainly confined to the Punjab. The presence of this virile community with a great historical past and of Hindus renders the constitution of the Punjab into a separate independent Muslim State extremely difficult and complicated without an agreed formula. If the Muslim League's demand in this regard is to be conceded, one will find it almost impossible to resist the Sikh case for a separate Sikh zone. On the presumption, therefore, that the status quo shall remain subject, whenever necessary, to minor territorial readjustments, all that we suggest is that both in the interim and post-war Governments, Central and Provincial, the Sikhs should be given adequate representation.

European British Subjects or British Subjects of European domicile

They may be given separate representation in the legislatures, Central and Provincial, in proportion to their numerical strength and not, as at present, on the basis of inflated weightage. There should be statutory safeguards against expropriation of their business, undertakings etc., but not against measures, legislative or administrative, that the appropriate authorities at the Centre and in the Provinces may deem proper to take for promoting the social and economic welfare of the people. There is, further, no reason why certain Church establishments should be borne on the Indian Exchequer.

Anglo-Indians—The existing statutory safeguards in respect of their Parliamentary representation, educational grants, employments in certain specific services etc., may be retained.

Indian Christians—In their own interests and for better understanding they may be placed in the 'General' category for the purposes of Parliamentary representation. If, however, they are not agreeable, the present arrangement may continue. But it should be the duty alike of Indian Christians themselves and the general body of Indian citizens from which they are drawn to cultivate each other

more intimately than has hitherto been the case, and evolve a basis for mutual accommodation and collaboration in the general concerns of the State, without prejudice to their respective religious customs, practices, and forms."

FUNDAMENTAL RIGHTS.

363. Recommendation No. 17 adopted by our Committee deals with the question of Fundamental Rights. It will be seen that in that recommendation we recommend that Fundamental Rights should be incorporated in the future Constitution of India assuring—

"(a) the liberties of the individual;
(b) the freedom of Press and association;
(c) equality of rights of citizenship of all nationals irrespective of birth, religion, colour, caste or creed;
(d) full religious toleration, including non-interference in religious beliefs, practices and institutions;
(e) protection to language and culture of all communities."

Then the recommendation goes on to say that "It should further contain specific declarations on the lines indicated in the reports of the Scheduled Castes and Minority Sub-Committees, for the complete abolition of disabilities imposed by tradition and custom on the Scheduled Castes and the safeguarding of special religious customs like wearing of Kirpans by the Sikhs. The precise formulation of these rights should be undertaken by a special committee of experts at the time of the framing of the new constitution."

364. We do not propose to discuss each one of the Fundamental Rights. We would draw attention to those Fundamental Rights which have been recommended by the Scheduled Castes Sub-Committee and the Minority Sub-Committee, which we have already discussed above, but in addition to these we would draw attention to pamphlet No. 2 issued by this Committee and the Introductory Note by Mr. K. Santhanam, our Joint Secretary, dated the 25th of December, 1944. In this pamphlet we have collected together the Fundamental Rights incorporated in the Constitutions of the United States of America; the United States of Soviet Russia, 1936; Swiss Confederation, June 1921; The Irish Free State, 6th December, 1921; The Polish Republic; Law of 17th March 1921; The German Reich, 11th August, 1919; Czechoslovakia, 10th September 1919; The Kingdom of Belgium, 7th February, 1931, as revised up to the 15th October, 1921; The Estonian Republic, 15th June, 1920; and the United States of Mexico, 31st January, 1917. We have also given extracts

from the Minorities Treaties of the League of Nations at pages 29 to 33, and also extracts from National States and National Minorities at pages 33 and 34. In addition to this, the constitutional aspect of Fundamental Rights has been discussed at length in an exhaustive note contained in Chapter VI, page 23 of pamphlet No. 3. We desire that it should be treated as a part of this report. We would like to reproduce here the last paragraph of our note (see pages 28 and 29 of pamphlet No. 3) as follows:—

"When the question of fundamental rights has been settled and a list is prepared of those rights provision will have to be made for dividing them into justiciable and non-justiciable rights. British lawyers are generally opposed to the continental system of fundamental rights, though such rights are scattered over a number of statutes going back to the time of the Magna Carta. The principle of English Law is thus stated by Professor Dicey in his book 'Law of the Constitution,' 'The one fundamental dogma of English Constitutional Law is the absolute legislative sovereignty or despotism of the King in Parliament. But this dogma is incompatible with the existence of a fundamental compact, the provisions of which control every authority existing under the Constitution.' With reference to India, however, some fundamental rights have always been laid down by Parliament or the Sovereign. Some of the provisions relating to fundamenatl rights and minorities in the Government of India Act of 1935 have been summarised in Pamphlet No. 1, p. 1. Attention may particularly be drawn to section 298(1) (of the Government of India Act, 1935) under which a subject of His Majesty will not be debarred from holding any office under the Crown on grounds only of religion, place of birth, descent, colour or any of them. Similarly in the Proclamation of Queen Victoria it was stated, 'We declare it to be Our Royal Will and Pleasure that none be in any wise favoured, none molested or disquieted by reason of their religious faith or observances; but that all shall alike enjoy the equal and impartial protection of the law; and we do strictly charge and enjoin all those who may be in authority under Us that they abstain from all interference with the religious belief or worship of any of Our subjects on pain of Our highest displeasure.' In short, whatever may be the position in England, the adoption of definite, clear and mandatory safeguards including fundamental rights is desired by all parties and communities."

365. Having given the matter our best consideration we have come to the conclusion that howsoever inappropriate the tabulation of fundamental rights may be in England and howsoever inconsistent

it may be with the fundamental dogma of the British Constitution that fundamental rights are incompatible with the sovereignty of Parliament, in the peculiar circumstances of India we are distinctly of the opinion that the framing of fundamental rights is necessary not only for giving assurances and guarantees to the minorities but also for prescribing a standard of conduct for the legislatures, Government and the courts. The real difficulty will be in dividing fundamental rights into classes: (1) Justiciable, and (2) non-Justiciable, but this difficulty must be faced. We are alive to the danger of too much interference with the Executive Government on the part of the Judiciary, but we also realise that in the last resort in a Federal Constitution such as we envisage, the Judiciary is the final protector and guardian of the Constitution. Difficult as the task may seem, it should not be impossible for competent and skilful lawyers to divide the fundamental rights in such a way that the breaches of some of them may form the subject of judicial pronouncement, and the breaches of others may be remedied without resort to courts of law. This task obviously cannot be undertaken by us. It will be for the Constitution-making Body first to settle the list of fundamental rights and then to undertake the division of fundamental rights into justiciable and non-justiciable and then to provide suitable machinery for the enforcement of both. We should be sorry if constitutional jurists or lawyers under the spell of English law treated fundamental rights as nothing more than moral maxims or adages.

366. Dealing with the question of fundamental rights an American writer of great authority—Cooley—observes in his book on Constitutional Limitations as follows:—

"The common law of England consisted of those maxims of freedom, order, enterprise, and thrift which had prevailed in the conduct of public affairs, the management of private business, the regulation of the domestic institutions, and the acquisition, control, and transfer of property from time immemorial. It was the outgrowth of the habits of thought and action of the people, and was modified gradually and insensibly from time to time as those habits became modified, and as civilization advanced, and new inventions introduced new wants and conveniences, and new modes of business. Springing from the very nature of the people themselves, and developed in their own experience, it was obviously the body of laws best adapted to their needs, and as they took with them their nature, so also they would take with them these laws whenever they should transfer their domicile from one country to another."

367. Further we may recall here that as late as the year 1875 the Congress of the United States of America passed an Act which provided that "all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, and advantages, facilities, and privileges of inns, public conveyances on land and water, theatres and other places of public amusement, subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and colour, regardless of any previous condition of servitude."

368. If we are going to have a democratic constitution, we feel strongly that we should provide certain standards of conduct, citizenship, justice and fairplay to all the members of the community, when we know that we are making a deliberate and conscious attempt to emerge from a state of society, in which inequality was the rule, to a state of society in which we hope equality will be normal standard. Fundamental Rights, therefore, will not only be a standing warning to the vested interests or to the privileged classes but also a standing invitation to the governments, administrators and guardians of the law that the period of privileges and inequality is over and that what the constitution demands and expects is perfect equality between one section of the community and another in the matter of political and civic rights, equality of liberties and security in the enjoyment of the freedom of religion, worship and the pursuit of the ordinary avocations of life.

369. As Dr. Oppenheimer in his book on the Constitution of the German Republic points out "the function of these fundamental rights, as defined by the Committee on the Constitution, is 'to supply standards and prescribe limits for the legislature, the executive, and the administration of justice, both in the federation and in the states'. But a number of other ends was to be served at the same time. Their educational value was never lost sight of. They were to form the groundwork of instruction in politics and civics. The members of the National Assembly realised how much the German people were wanting in knowledge of these subjects. Hence they were made compulsory in all schools, and it was further provided that a copy of the constitution was to be handed to each pupil on leaving school...... For the fundamental rights were to be 'not only bricks in the building, but the bread of life of the constitution'. They were intended 'to sink deeply into the soul of the nation and had therefore to offer more than dry paragraphs'."

Minorities Commission.

370. Recommendation No. 18 of the Committee provides for the establishment, at the Centre and in each of the Provinces, of an Independent Minority Commission, which shall be composed of the representatives of each of the communities (not necessarily a member of that community) represented in the Legislature. We should like to explain our scheme of this Commission before we refer to any parallels. First, as to its composition we hope that rules will be framed prescribing the qualifications for the membership of this commission. Each community represented in the Legislature will be at liberty to elect its representatives on this commission. The representatives so elected need not, however, belong to that community. It will be noticed that in our recommendation we provide that the Minorities Commission should be an independent body. We explain this in clause (c) of our recommendation as meaning that no member of the legislature shall be eligible for the membership of the Commission. Clause (d) provides that the term of office of the members of the Commission shall be the same as, and synchronize with, the term of office of the members of the legislature concerned. We do not think that the party politics of the legislature should be the standard of conduct for the members of the Commission. While each member of the Commission elected by the members of the community will consider it his duty to safeguard the interests of his community, he will also be at liberty, consistently with the rules that may be framed in this behalf, to adopt his own method of safeguarding them and of drawing the attention of the Government to the grievances of the community. In clause (e) are laid down the functions of the Commission as follows:—

"to keep a constant watch over the interests of minority communities in the area." We assume that this Commission will be endowed with a regular staff and will keep itself in touch with the members of the different communities. If there is any legitimate grievance which a community is suffering from or if there is any harm or injury inflicted on it by an Act of the Legislature or proceeding of the Executive, it will be brought to the notice of the Minorities Commission and the latter will then interest itself in the cause of the aggrieved party. We do not contemplate that the Minorities Commission will attempt to deal with stray administrative acts or individual grievances but it will be at liberty to call for such information as it may consider necessary for discharging its functions. It may be urged that this may bring the Commission into conflict with the Government. It is, however, not our intention to give the

Commission a supervisory or a parallel jurisdiction over the Government. It can draw the attention of the Government to any legitimate grievance of any community, discuss the matter with the Government, and try to get the grievances redressed, but the responsibility for any action of the Government must be taken by the Government alone and cannot be shared with any other body. The Commission will also review periodically—for example once every six months—the policy pursued in legislation or administration by the Legislature and the Executive, in regard to the implementing of non-justiciable fundamental rights assured by the Constitution to minority communities and to submit a report to the Prime Minister of the day. The recommendations of the Commission are to be laid before the Cabinet which will give its best consideration to them and it will be the duty of the Prime Minister to bring the recommendations of the Commission to the notice of the Legislature with a full statement of the action taken or proposed to be taken by the Government in pursuance of the recommendation of the Commission. It is possible that the Government of the day may not agree with the recommendation of the Commission on any particular point. In such a case, it is provided that the statement of the Prime Minister to the Legislature will contain a full explanation of the decisions taken by the Government. We do not exclude the power of the legislature to discuss the recommendations of the Commission and the decisions of the Government thereon. Ultimately therefore the responsibility will be that of the legislature, which will include the representatives of the various communities. We do not think that if the Constitution is worked in the right spirit and if proper relations are established between the Minorities Commission, the Government and the legislature, there need be any conflict or friction. On the other hand, we very strongly hope that the Minorities Commission will recognise that its primary function is to inform, after enquiry, the Government of the day of the grievances of a particular minority. Its recommendations ought to help and not obstruct the Government in its work. Considering that the members of the Commission shall be outside the legislature, we believe that they will be able to take an independent line without identifying themselves with party views in the Legislature. We think that the scheme we have suggested is worth a trial and we have every hope that it will yield good results.

371. The Cripps Proposals, to which reference has already been made in a previous chapter, provided for the signing of a Treaty which shall be negotiated between His Majesty's Government and the Constitution-making Body. This Treaty will cover all necessary

matters arising out of the complete transfer of responsibility from British to Indian hands; it will make provision, in accordance with undertakings given by His Majesty's Government, for the protection of racial and religious minorities; but will not impose any restriction on the power of the Indian Union to decide in future its relationship to other Member States of the British Commonwealth. We share Sir Reginald Coupland's views (see Vol. 3, pp.161-164 of his "Constitutional Problem of India") that the proposal of this treaty is open to serious objection. Such a treaty would not accord with the new constitutional status of India; it would be difficult to enforce its terms, and it would not really serve the interests of the Minorities. The real protection of such interests is to be found not in any external authority but only in the law of the land. This will explain why insistence has been placed in the previous pages of this chapter on the provision of fundamental rights and similar safeguards and their enforceability in legal tribunals, as a part of the Constitution.

372. It will also explain the significance of our recommendation regarding the creation of an independent Minorities Commission as a part of the Constitution, the main business of which will be to watch the interests of the minorities, and secure redress of any harm or injury done to them by adopting the procedure laid down in the Constitution. It is hoped that in the course of its work the Minorities Commission will evolve appropriate details of such procedure and lay down rules and regulations for the effective discharge of its functions. It is realized that the machinery at the start will be imperfect, but it is hoped that in course of time its work will be smoothened, and rendered effective without unduly encouraging the minorities to create impediments in the progress of the country.

373. As stated above, the more important fundamental rights and safeguards will be made enforceable at law, and thus a sanction will be provided, but we venture to observe that the effectiveness of such sanction will really lie in the sense of responsibility of the Government, the Legislature and of the judiciary, which will be called upon to adjudicate on minority claims in a fair and liberal spirit. We are full of hope that once the outstanding differences are settled, a new spirit of co-operation, fairplay and justice will assert itself.

374. While, therefore, we recommend that the minorities should receive full and adequate protection in regard to their political, religious, social and economic rights, we must make an appeal to them that they will regard themselves more and more as integral parts of India. It would indeed be a misfortune if the minorities kept alive

memories of the past isolation and unduly emphasised their rights, laying little stress on their duties. A writer of great authority on International Law—Dr. W. E. Hall in his "treatise on International Law", in discussing the mutual relations of the minorities and the majorities, observes:

> "There has been too much stress laid on the rights of minorities in the Peace Treaties and not sufficient on their duties to the states of which they are members; but at the third Assembly of the League of Nations a resolution was passed emphasizing the duty incumbent upon persons belonging to racial, religious, or linguistic minorities to co-operate loyally with their fellow-citizens."

We sincerely hope that the spirit underlying this passage will actuate the minorities and the majorities in their mutual relations in future.

375. It will be seen that our recommendations, giving protection to the rights of minority communities, constitute a very large advance on existing conditions. These communities will in future be accorded by statute a place on the executive and will share the responsibility of administration. They will have an adequate voice in framing the Constitution, with safeguards against hasty changes therein. They will likewise have the benefit of fundamental rights, with power to have the more important ones enforced in the highest tribunal of the country. A Minorities Commission will keep a jealous watch over their welfare and will obtain relief when it is injured. These and similar other provisions constitute a new feature of the proposed constitution, not easily to be found in the constitution of many civilized countries, for instance, in America, with reference to the coloured population of that country. It is devoutly hoped that, in the exercise and enjoyment of these rights, the minority communities will not lose sight of their obligations to the sub-sections which exist in their midst. It is well-known that many of these minority communities have minority sections amongst themselves. What are, for instance, termed 'the Scheduled Castes' are not a compact body as is sometimes believed, but there are numerous sections and subdivisions amongst them, completely isolated by interdicts against marriage, inter-dining and social contact. Cases often come up where a sub-section complains of the tyranny of another sub-section in power, with the same zeal and intensity as against the majority community. Patronage, it is said, is often exercised in favour of his own sub-section by a leader of another sub-section, who rises to a position of administrative eminence. These remarks are equally true of some other minorities and even the Indian-Christian community

can hardly be said to have attained that degree of social solidarity and compactness, which is to be expected from the profession of a single Faith and the theoretical abolition of caste distinction. It is, therefore, our hope that these minorities will exercise the rights we have recommended for their protection in such a way that gradually the enjoyment of these rights will filter down to the humblest sub-division amongst them and the vicious habits of class nepotism and class favouritism, which they often allege against the majority community, will be found diminishing from their concerns.

376. If our picture of a united India, knit together in mutual confidence and goodwill, is ever realised in the future, it can only be the outcome of the majority and minority communities, with all their sub-sections and sub-divisions, working together to evolve a common nationality supporting the existence of a common motherland.

CHAPTER VIII

DEFENCE

377. Our Recommendation (No. 14) in respect of Defence has been formulated in the following terms:

"The Committee strongly recommends that under the new constitution there should be a portfolio of Defence which should be held by a Minister responsible to the Legislature and that the actual control and discipline of the Army should be placed in the hands of a Commander-in-Chief under the new Government. The Committee further recommends that a national army should be created and developed as rapidly as possible. It is unable to suggest at this stage what the strength of this army should be, as this will depend, apart from the vital question of finance, on a number of other factors, such as the nature of the post-war world settlement and the efficacy of the international organisation for the maintenance of world peace. Among the measures which should be adopted for the creation of such an army, the Committee recommends the following:

"(1) (a) Such British units as temporarily may be required for the efficient defence of India and such British officers as may be needed for officering the national army, until an adequate number of Indian officers become available, shall be obtained by a treaty or agreement entered into between the Union Government and His Majesty's Government, specifying, among other things, the terms and conditions of their employment by the Union.

(b) As soon as the war is over, all direct recruitment of British officers to the Indian forces should cease. Such British officers as do not belong to the Indian Army and are not required for specific appointments should be reverted to the British Army establishment.

(2) An institution should be established for the training in sufficient numbers of officers of all the three arms—Air, Land and Sea—and all defects existing in the present system which prevent rapid Indianisation or the creation of

Indian officers capable of assuming leadership should be forthwith removed.

(3) If it is found that the present educational system does not produce a sufficient number of young men suitable in every respect for a military career, steps should be taken at once to remove this defect.

(4) The University Officers Training Corps should be established where they do not exist and largely expanded and measures taken not only for ensuring supply of officers to fill vacancies in peace time but for the rapid expansion of the cadre in the event of a military threat to India. Such measures should aim at creating a reserve of young men with service training who can be rapidly absorbed as officers when expansion takes place.

(5) The Committee would emphasise that the maintenance of law and order is essentially the responsibility of the Unit governments and that they should, if necessary, by increasing the strength of their police forces, equip themselves adequately for the discharge of this responsibility. The Committee would, however, make it clear that the services of troops on the Union Army establishment should be available for being requisitioned only when the civil power finds itself unable to cope with any particular situation.

The Committee further recommends that a balance should be maintained between the respective arms and that special attention should be paid to the Navy, Air Force, mechanised units and such other branches as may be from time to time developed.

The Committee recommends that steps should be taken, even before the coming into being of the new constitution, to adopt and give effect to the measures as far as practicable."

We shall deal first with some of the constitutional issues raised by our recommendation.

378. Under section 11 of the Government of India Act, 1935, the functions of the Governor-General with respect to defence are to be exercised by him in his discretion and he is to be assisted in the exercise of those functions by a counsellor whose salary and conditions of service will be such as may be prescribed by Order in Council. In other words, defence was to be a reserved subject, for the administration of which the Governor-General would be responsible to the Secretary of State and Parliament. Section 11, was, however, to come into operation only if and when the Federation

was established. It is, therefore, not now in force. Under the existing constitution, defence is the responsibility of the Governor-General in Council, though in List I of Schedule VII it is not in terms mentioned as a Federal subject, as is done in Section 91(7) of the British North America Act and Section 51 (6) of the Commonwealth of Australia Act. The work connected with defence is divided between a civilian Defence Member and the Commander-in-Chief, who is designated War Member. Under any system of real self-government, defence as a whole must be in the charge of a member of the responsible ministry, who will be chosen from among the political supporters of the Government in power and only secondarily on grounds of military knowledge or experience. The ministry will be collectively responsible to the legislature for his administration of defence. The disciplinary head of the armed forces, if there is a separate Commander-in-Chief, has to work under the orders of the Government. That is the first part of our recommendation on this important subject.

379. The King is, constitutionally speaking, the titular head of all the armed forces in the British Empire, though, according to Keith, "the practice of law is to grant to the Governor-General the title of Commander-in-Chief." Under Section 15 of the British North America Act, the Commander-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is declared to continue and be vested in the Queen.

The command in chief of the naval and military forces of the Commonwealth of Australia is, under section 68 of the Commonwealth of Australia Constitution Act, vested in the Governor-General as the Queen's representative.

Section 17 of the Constitution Act of South Africa vests in the King, or in the Governor-General as his representative, the command in chief of the naval and military forces within the Union.

The position in the Irish Free State is that "the command in chief is vested in the Executive Council which exercises it through the Minister for Defence, who bears the title of Commander-in-Chief, but who may not exercise executive command and may not be an officer on full pay."[1]

An Army Secretary once claimed—some years before the present Government of India Act came into force—that under the law the headship of the Indian Army was vested not in the Commander-in-Chief nor even in the Governor-General, but in the Governor-General-in-Council. In his speech before the Federal Structure Commit-

1 Dominions as Sovereign States by A. B. Keith, 1938 p. 627.

tee of the Round Table Conference on the 16th of November 1931, Sir Tej Bahadur Sapru said:

> "At the present moment the true constitutional position with regard to the Army, as it appears to me, is that the Army is maintained by the Crown in India. Excepting for the fact that you find, in the existing constitution, provisions with regard to the appointment of the Commander-in-Chief, or rather with regard to his position in the Executive Council, and also provisions laying down that the Civil and Military Government of India rests in the Governor-General subject to the control of the Secretary of State, there are no special provisions to be found with regard to the Army in the Government of India Act. Therefore, I venture to think that the true view to take is that the Army is maintained by the Crown in the exercise of its prerogative in India, but the money required for the upkeep of that Army is found by the Indian Legislature out of the general taxes."

That statement of the constitutional position was not challenged at the Round Table Conference. It had reference, however, to the Act as it stood before 1935. The paramountcy of the Royal prerogative in this connection has also to be inferred from a statement made in 1934 in the Council of State by the then Commander-in-Chief in the course of the discussion of the Indian Army (Amendment) Bill. He then said that the Government of India had been informed by His Majesty's Government that it was impossible to accept any proposal from the Indian Legislature, "that the status and opportunities for promotion and power of command, rank and precedence of the Indian Commissioned officers in the Indian Army shall be the same as those of the British officers in the Indian Army in whole units and formations," because the question at issue was one of His Majesty's prerogative. Under Section 4 of the Government of India Act, 1935, the Commander-in-Chief is appointed by Warrant under the Royal Sign Manual. On the Dominion analogies we have referred to above, when India attains independent status, the supreme command of the armed forces of the new State will probably be required to be vested in the Head of the State, though there might be a Commander-in-Chief appointed by the new Government from time to time, who will be in immediate control of all administration and discipline, and Indian statute law will have to provide for the government of the armed forces, the application of the British Army Act and any other enactment of a similar nature to the Indian Army being done away with.

Section 232 of the Act which has not yet been brought into operation, provides that the pay and allowances of the Commander-in-Chief and other conditions of service shall be such as His Majesty in Council may direct. It is obvious that this cannot be the case when India has full self-government. The pay and allowances of the future Commander-in-Chief must be fixed by the new Government.

380. Attention may also be drawn to three other sections of the Government of India Act:

"233. (1) His Majesty in Council may require that appointments to such offices connected with defence as he may specify shall be made by him or in such manner as he may direct.

(2) Nothing in this section derogates from any power vested in His Majesty by virtue of His Royal Prerogative."

"234. The power of His Majesty, and of any person authorised in that behalf by His Majesty, to grant commissions in any naval, military or air force raised in India extends to the granting of a commission in any such force to any person who might be, or has been, lawfully enlisted or enrolled in that force."

"235. Without prejudice to the generality of the powers conferred on him by this Act, the Secretary of State may, acting with the concurrence of his advisers, from time to time specify what rules, regulations and orders affecting the conditions of service of all or any of His Majesty's Forces in India shall be made only with his previous approval."

These sections also will have to be radically overhauled when the new constitution is framed. Section 237 provides that any sums payable out of the revenues of the Federation in respect of pay, allowances, pensions or other sums payable to or in respect of persons who are serving or have served in His Majesty's armed Forces are charged on those revenues. Section 67 A(3) (vi) of the old Government of India Act, which is retained in force by Schedule IX of the new Act, directs that expenditure classified under Defence need not be submitted to the vote of the Legislative Assembly, nor shall any proposals relating to such expenditure be open to discussion by the Assembly when the annual financial statement is under consideration, unless the Governor-General otherwise orders. Strictly speaking, in a self-governing India, a limitation of this nature cannot be placed on the powers of the Legislature, though, no doubt, constitutional practice will safeguard the position of the Defence services.

381. The position in the different Dominions of the British Commonwealth is thus summarised by the late Prof. A. B. Keith in his book, "The Dominions as Sovereign States" published in 1938:

> "Whatever the extent of the prerogative of the Crown in matters of Defence in the Dominions, the matter of government of armed forces now rests on Statute which may be taken to have rendered obsolete any prerogative powers."
>
> **CANADA:** "The National Defence Act, 1922, transferred to a department of National Defence control of the militia, the navy, and civil and military aeronautics. The Minister is aided by a deputy and there was constituted a Defence Council over which he presides, his deputy being Vice-President."
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> **AUSTRALIA:** "The administration of the armed services rests with the Department of Defence under a Minister and a Secretary. There is a Council of Defence under the presidency of the Prime Minister, on which the three services are represented and which deals with policy co-ordinating the requirements of sea, land and air. There is also a Defence Committee, whose chairman is the Chief of the General Staff. Each service has its own Board under the presidency of the Minister of Defence and is responsible for the control and administration of the forces."
>
> **NEW ZEALAND:** "The system of military administration is simple. The Minister of Defence is connected on the one hand with the Naval Board, over which he presides, and on the other with General Headquarters, New Zealand Military Forces. The military forces were commanded by a general officer, assisted by branches of General Headquarters, the New Zealand counterpart of the War Office. In August 1937 the decision was taken to create a Council of Defence, and to place the Military and Air Forces under Boards."

382. We lay great stress on the creation and rapid development of a national army. Before discussing this question, it is proposed to describe very briefly the effects of the Indian rebellion of 1857 on the composition and character of the Indian army, as this historical background is necessary for a just appreciation of the problem which faces us. The events of 1857 in which the Bengal army was deeply implicated have left a profound impress on the British Government's army policy. In 1856 the strength of the Indian army was over 2,14,000, while the strength of the British forces was only about 28,000. There were at that time really three armies—those of Ben-

gal, Bombay and Madras. Recruitment was practically regional, each army recruiting within its own territorial limits. The Bengal army was the dominant army, recruited mainly from high caste Hindus of Bihar, Oudh and the Agra Province. In the Bombay and Madras armies, distinctions of caste and religion were not emphasised. After the rebellion, the chief aim of British policy was to prevent the Indian army from becoming again a menace to the maintenance of British power in India. The following extract from the report of the Punjab Committee of 1858, which included Sir John Lawrence, explains the policy which held the field for many years:

> "As we cannot do without a large Native army in India, our main object is to make that army safe; and next to the grand counterpoise of a sufficient European force, comes a counterpoise of Natives against Natives. At first sight, it might be thought that the best way to secure this would be to mix up all the available military races of India in each and every regiment, and to make them all general service corps. But, excellent as this theory seems, it does not bear the test of practice. It is found that different races mixed together do not long preserve their distinctiveness; their corners and angles, and feelings, and prejudices get rubbed off, till at last they assimilate, and the object of their association to a considerable extent is lost. To preserve that distinctiveness which is so valuable, and which, while it lasts, makes the Muhammadan of one country despise, fear or dislike the Muhammadan of another, corps should in future be provincial, and adhere to the geographical limits within which differences and rivalries are strongly marked. Let all races, Hindu or Muhammadan, of one province be enlisted in one regiment and no others, and, having thus created distinctive regiments, let us keep them so against the hour of need by confining the circle of the ordinary service to the limits of their own province, and only marching them on emergency into other parts of the Empire, with which they will then be found to have little sympathy. By the system thus indicated, two great evils are avoided, firstly that community of feeling throughout the Native Army and that mischievous political activity and intrigue which results from association with other races and travel in other Indian provinces; and, secondly, that thorough discontent and alienation from the service which has undoubtedly sprung up since extended conquest has carried our Hindustani soldiers so far from their homes in India proper. We believe that what is called 'general service' has been prominent among the causes which undermined our once faithful Native army."

This committee laid down four distinct safeguards:—

(1) Counterpoise between areas and races must be preserved.

(2) Units should be enlisted on a territorial basis.

(3) They should for the most part be mixed in composition.

(4) They should as a rule serve in their own province.

It was hoped by this means to keep alive provincial, class and race separatism, so that the main elements of the Indian army could not combine with each other in any joint movement against British rule. As the Bengal army had taken a prominent part in the revolt, the areas and classes from which it was recruited were practically excluded from future recruitment. The proportion of high caste Hindus was greatly reduced by the drastic reduction in the number of regiments known as the Pandy regiments (regiments in which Brahmins, i.e., Pandes, were included). The strength of the Indian army was considerably reduced and that of the British army considerably increased. A ratio of 1 to 2½, between the British and the Indian forces, was maintained, and Indian recruitment was confined mainly to the infantry and cavalry.

383. The policy of a balance of provincial recruitment and of segregating the classes and races composing the army had subsequently to be modified owing to the exigencies of Frontier Wars and of the Russian Scare of 1895. "We must" wrote Lord Roberts in 1890, "have the best fighting material the country can supply, trained and ready and can afford no place in the Native army to a soldier whose only **raison d'etre** is that he acts as a check upon another soldier."

384. On this principle of military efficiency combined with the growing strategic importance of the North Western Frontier, recruitment came to be concentrated in North-West India and the new theory of martial and non-martial classes emerged, which has persisted except during the two World Wars when large armies had to be raised on a voluntary basis. As a result of this policy, Bihar, Bengal, Assam and large classes of the populations of the U.P., Bombay, Madras and the Central Provinces were excluded. Leaving aside the Gurkhas, recruitment was concentrated in the Punjab and the N.W. Frontier. As the classification of martial and non-martial was arbitrary and artificial, there were sharp differences of opinion between high military officers as to the relative merits of the various classes. For example, Lord Roberts, while considering the Gurkhas "by far the best of all our Asiatic soldiers," held a comparatively low opinion of most Punjabi Mussalmans and a poor opinion of U.P. Jats and Hindustani Mussalmans whose numbers at the beginning of 1914 were reduced to less than 8,000.

385. Broadly speaking, considerations of military safety have taken the first place in determining the areas and classes from which recruitment has been made. Theories of martial races and their adaptability to the rigours of a Northern climate have been put forward to support the claim that military efficiency is the prime motive. In any case, as the North-Eastern Frontier of India is now of great strategic importance, the climatic theory will have to be modified.

386. Another noticeable effect of the rebellion was that Indians were excluded from the Artillery and other scientific branches and were mainly confined to the infantry and cavalry. We shall revert to this in a subsequent paragraph. The after-effects of the Indian rebellion so far as the rank and files were concerned may be summarised as follows:

> Very drastic territorial change in recruitment and in the sources from which recruits were obtained; a large reduction in the strength of the Indian army and an increase in the strength of the British forces on the theory of counterpoise and with a definite safety ratio between the two armies reinforced by confining the scientific side of the army to the British section.

387. We shall now deal with the important question of the officering of the Indian army. Even before 1857 there had been a distinct tendency to reserve all substantive powers in the hands of British Officers. After the rebellion, racial prejudice was reinforced by a policy based on fear and distrust. Lord Roberts was a stout opponent of granting commissions to Indians. He said:

> "It is this consciousness of the inherent superiority of the European which has won for us India. However well-educated and clever a native may be, and however brave he may have proved himself, I believe that no rank that we could bestow upon him would cause him to be considered as an equal by the British officer or looked up to by the last joined British subaltern."

The grounds of opposition have varied since, expression of opinion has not always been so frank and direct, but the reluctance to open the door of the Commissioned ranks to Indians has persisted. In no sphere of Government has there been such bitter and prolonged conflict between Indian demands and the stubborn and deliberately dilatory policy of the British Government, so palpably based on racial arrogance and deep distrust of the educated classes. Uptil 1918 the highest rank to which an Indian could rise was the Viceroy's Commission, which, however, placed him below the latest joined

Second-lieutenant. It was only in 1918 that Indians were, for the first time, admitted to the Commissioned ranks of the army.

388. We shall now review very briefly the proceedings of four important committees:—

(1) The Shea Committee of 1921
(2) The Skeen Committee of 1925
(3) The Defence Sub-Committee of the Round Table Conference of January 1931, and
(4) The Indian Military College Committee of July, 1931.

We shall show that, while the principle of Indianisation was accepted as far back as 1921, to its practical application a variety of objections have been consistently raised.

389. The Shea Committee was appointed in 1921 by the then Commander-in-Chief, Lord Rawlinson, to work out a scheme for the complete Indianisation of the officer ranks of the Indian army by definite stages, the principle of Indianisation having already been unanimously accepted by Government. The Committee, who were an expert committee of high military officers, submitted a scheme for the complete Indianisation of the officer ranks in 42 years, divided into three periods of 14 years each. The Committee were requested by the Commander-in-Chief to revise this period and they submitted a revised report on January 11, 1922 reducing the period to 30 years. Although the Committee had laid down a definite rate of progress they were unable to conceal their distrust of the educated classes. They said:

> "The Committee observe that it has yet to be proved that any body of officers drawn largely from other classes of the community will prove equal in soldierly quality to the Indian Officers of the old type."

They also suggested Indianisation by units, which in practice would obviate the risk of British officers serving under Indians. Their views seem to have been shared by the Commander-in-Chief, Lord Rawlinson, as will appear from the following extracts from his biography by Major-General Sir Frederick Maurice. Quoting a conversation between Lord Rawlinson and Pandit Malaviya, (in the book Malaviya is spelt as 'Malavire'), whom the biographer describes as "Gandhi's right-hand man," Lord Rawlinson is reported to have said "India may be able, eventually, to protect her frontiers with fewer British regiments; but how soon can she look to doing without British troops and British officers for Indian regiments? It will take her thirty years to breed and train a class which is capable of leading her troops. In the interval, if they hurry things, British Officers

will not come to India. Already they are beginning to hesitate at the mere prospect of Swaraj. Of course, he (Pandit Malaviya) was unconvinced; but I gave him something to think about, and showed him that the prime function of the British troops in India was not to keep down the natives, but to defend India from aggression." 'I have agreed to recommend the reduction of three British cavalry regiments and five British infantry regiments, when the external conditions and the state of the frontier admits. This is rather faster than I had intended to go in the first instance; but I could not resist the pressure when it came to considering the fact that we had twenty-eight British, and only twenty-one Indian, battalions allotted for internal security. It was impossible to defend this proportion, which dates from the post-Mutiny days. Now that we have decided to trust the Indians and lead them to self-government, we cannot justify an army of occupation. I agreed to recommend the eventual institution of an Indian Woolwich and Sandhurst; but I told the native members of my committee that they were trying to go too fast. I am in favour of setting up military schools at Dehra Dun and Bangalore at once; but it would be a foolish waste to start a Sandhurst before a sufficient supply of young men of the right type is assured. We have had a long discussion on the future status of the Indian Officer. The Council has settled that commissions in the Indian Territorial and Auxliary forces are to be King's Commissions signed by the Viceroy. This will mean that we shall have to follow suit in the Indian Regular Army, which opens up the whole question of the relations between the British and native officers. It is full of snags. If it is rushed, the supply of British officers will dry up long before India is in any degree ready to do without them. To my mind, the only solution is to begin by making some cavalry and infantry regiments wholly Indian. This will avoid the difficulty of making white officers serve under Indian officers, and will enable us to test the effect of the change. I must talk it all out with Jacob, whose judgment on these matters I find is very reliable. Personally, I fear the effect of the efficiency of the Indian army as a fighting machine. Will we ever get the young educated Indian to lead a charge of veteran Sikhs against a sangar held by Mahsuds, and, if he did so, would the Sikhs follow him? Will we ever get the sons of the land owners of the fighting races, who are brought up to despise the Babu, just as our feudal chiefs despised the clerk, sufficiently educated to be trusted with the lives of men in modern war? I told the Viceroy that it will take at least two, and probably three generations to produce Indian officers of the right kind and in sufficient numbers, and he agreed.'"

390. The experiment of Indianisation within a definite period of 30 years began with confining the process to definite units known as the Eight Units Scheme. This scheme was extremely unpopular with Indian Officers who regarded it as a form of segregation. Another committee met in 1925 known as the Skeen Committee. It was not a committee purely of military officers but had a number of prominent politicians on it. The report of the Shea Committee was never placed before it. The main recommendations of this committee were:—

(1) The establishment of a Military college in India on the lines of Sandhurst, in 1933.
(2) The abandonment of the scheme of Indianisation by Units.
(3) 50 per cent of the total cadre of officers in the Indian Army to consist of Indians by 1952.
(4) Even after the establishment of the Military college, Indians to go to Sandhurst for training at the rate of 20 a year.
(5) The basis for the recruitment of officers to be broadened and selection not to be confined to the so-called martial classes. ....

The Shea Committee's scheme was watered down to the extent that the proposals did not go beyond a period at the end of which only half the cadre would be filled by Indians. The Government of India took no action on the recommendation for the establishment of an Indian Sandhurst; the Units scheme of Indinisation was allowed to continue. The Committee's recommendation that 20 Indians were to be sent to Sandhurst every year for training was accepted. As will be shown later, it led to no real acceleration of Indianisation.

391. The next important discussions on Indianisation were in the Defence Sub-Committee of the Round Table Conference in 1931. It is unnecessary to refer to the findings of the Simon Commission whose report, published in 1930, postponed the question of Indianisation to an indefinite period, and endorsed the theory of martial classes. The dignified but caustic comment of Sir P. S. Sivaswami Ayyar indicates the value that the Simon Commission's observations deserve. He said:

> "The fact that the Simon Commission has endorsed this theory of the Military authorities furnishes no proof of its correctness. Internal evidence shows that their remarks are an uncritical reproduction of an official memorandum."

During the discussions in the Defence Sub-Committee the existence of the Shea Committee's Report was brought to light by Sir Tej Bahadur Sapru and the late Sir Mohammad Shafi, who had both

been concerned with decisions on the Report, as members of the Government of India. In spite of repeated efforts on the part of the Indian members of the Defence Sub-Committee, no decision was taken by the Round Table Conference as to the rate of Indian recruitment. All that was conceded was that an Indian Sandhurst in which Military training in all arms would be given should be established and the Government of India would be asked to appoint an expert committee for this purpose. Mr. Jinnah, Dr. Jayakar and others clearly foresaw then the danger of leaving the question of the rate of Indianisation unsettled. Mr. Jinnah said "We have ample material. Imagine 320,000,000 people with a history behind them. Does any man of commonsense believe that we cannot produce 120 boys per year who will be able to stand the most rigorous and the strictest test of efficiency before they are granted King's Commissions? That is question number one. We can give you the whole number straight away. Are you prepared to accept it? If you want to Indianise the Army, if you really are in earnest, if you mean to hand over the defence of India as soon as possible to India, you can do it by saying, 'henceforth the total number of the wastage shall be recruited from amongst the Indians' and that will take you 35 years.'" Mr. Jinnah had thus 15 years ago clearly asked for the stoppage of all British recruitment to the Indian Army. The late Sir Mohammed Shafi and Sir Tej Bahadur Sapru stood by the scheme of the Shea Committee under which the whole cadre could be Indianised within 30 years and which had been approved by the then Viceroy, Lord Reading, and the whole of his Executive Council.

392. The following remarks of the late Maharaja of Bikaner in the course of the discussions of the Sub-Committee also deserve quotation:—

> "Finally, if I may be permitted to express my personal view, it is that Indianisation is overdue. That view, I think, is shared by us on this side, and personally I think the Eight Units scheme, however necessary it was to start with, is a scheme which on the face of it has so many demerits that I need not go into details. I hope that when effect is given to Indianisation it will be real Indianisation in the proper sense of the term."

393. After a great deal of discussion in which there was a sharp difference between the Indian and British view point, certain resolutions, along with an introductory preface, were passed and are reproduced below:

> "The majority of the Sub-committee considered it impossible for practical reasons to lay down any definite rate of India-

nisation or anything of a precise character that might in any way embarrass those responsible for Defence and fetter the judgment or the discretion of the military authorities. Those that held this view felt that the principle of the Indianisation of officers of the Indian Army could not be looked upon as merely a question regarding the efficiency of a single officer or group of officers, or even of a single unit or group of units. It was a principle that to the majority appeared to affect the Army as a whole. It was in consequence the view of this large section of the sub-committee that a highly technical question was involved on which the sub-committee was not qualified to express an opinion. One section of the sub-committee, however, was in favour of a strong affirmation to the effect that the complete Indianisation of the officers in the Indian Army should take place within a specified period, subject of course to the requirements of efficiency, and further subject to the provision of suitable candidates for recruitment as officers in India. Those members who were of this opinion held the view that this was not a technical question at all, but involved only practical considerations. The difference in these two views being fundamental, the Sub-committee decided to incorporate these in its report, and the Chairman further undertook that, when, in pursuance of the resolutions of this Sub-Committee, expert committees were appointed, those expert committees would, as a matter of course, take into consideration the proceedings of previous Committees and in particular the proceedings of the Military Requirements Committee of 1921 and the Committee on the Indianisation of the Indian Army of 1922."

"Subject to the above, the sub-committee arrived at the following definite resolutions:

(1) The Sub-committee consider that, with the development of the new political structure in India, the Defence of India must, to an increasing extent, be the concern of the Indian people, and not of the British Government alone.

(2) In order to give practical effect to this principle, they recommend—

(a) That immediate steps be taken to increase substantially the rate of Indianisation in the Indian Army to make it commensurate with the main object in view, having regard to all relevant considerations, such as the maintenance of the requisite standard of efficiency. (Mr. Jinnah dissented and desired a clear indication of the pace of Indianisation).

(b) That, in order to give effect to (a), a training college in India be established at the earliest possible moment, in order to train candidates for commissions in all arms of the Indian defence services. This college would also train prospective officers of the Indian States Forces. Indian cadets should, however, continue to be eligible for admission, as at present, to Sandhurst, Woolwich and Cranwell.

(c) That in order to avoid delay the Government of India be instructed to set up a Committee of experts, both British and Indian (including representatives of Indian States) to work out the details of the establishment of such a college.

(3) The Committee also recognise the great importance attached by Indian thought to the reduction of the number of British troops in India to the lowest possible figure and consider that the question should form the subject of early expert investigation.

A view was expressed that an addition should be made to these resolutions to the effect that the sub-committee recognised that no action should be taken so as to prejudice in any way the power of the Crown to fulfil military obligations arising out of treaties with particular Indian States. It was ruled, however, and accepted by the Sub-committee that such a specific declaration was unnecessary, the Chairman giving an undertaking that neither this sub-committee nor any other Committee could in any way abrogate treaty obligations and engagements that were in operation.

In agreeing to the foregoing recommendations the sub-committee were unanimous in their view that the declaration must not be taken as a mere pious expression of opinion, but that immediately the Conference was concluded, steps should be taken to deal effectively with the recommendations made.

The advisability of establishing a Military Council including representatives of the Indian States was agreed to."

394. As soon as the expert committee, appointed in India, under the chairmanship of the Commander-in-Chief, Sir Phillip Chetwode, met in May 1931, a dispute at once arose as to its scope. The Chairman ruled that the Committee was not concerned with the rate and method of Indianisation or the class composition of the ranks of the Army but only with the details for the establishment of a military training college. In his opening speech, the

Commander-in-Chief announced that, on certain questions, decisions had already been taken, for example, that Indianisation would be by Units, that, in these Units, the Viceroy's Commissioned officers would be abolished and would be replaced by Indian Commissioned officers and that the scheme of Indianising Eight Units would be expanded to the Indianising of a whole division and a cavalry brigade. He emphasised that the scheme of Indianisation was an experiment and that the crux of the problem was the supply of suitable candidates. The Committee were also informed that the Government of India's proposals involved an output of about 60 Indian Commissioned officers a year. The task of the Committee was thus reduced to drawing up a scheme for a military college, capable of producing sixty officers annually for the Indian Army in addition to training a certain number of cadets for service in the Indian State forces. It had been assumed in the discussions of the Defence Sub-Committee of the Round Table Conference that the Expert Committee in India would have an opportunity of considering all important reports before formulating their own proposals. The Chairman's ruling made it impossible to discuss any vital questions. The Shea Committee's recommendations that Indianisation should be completed in 30 years, the Skeen Committee's recommendation that half the cadre should be Indianised in 25 years, were all ignored. Nor was much regard paid to the laudable sentiments of the Defence Sub-Committee. It is true that a Military Academy was established at Dehra Dun in 1932 and that the output of Commissioned Officers was nearly doubled from what it was previously. But the rate of Indianisation was hardly accelerated, because of the decision that Indian Commissioned Officers would replace not merely British officers but also Viceroy's Commissioned Officers in the Indianising Units. The Indianised battalion was to contain 28 Indian Commissioned Officers instead of the 12 King's Commissioned Officers and 20 Viceroy's Commissioned Officers it had had previously. No period was laid down within which either the whole or even half the cadre would be Indianised. At the Military Academy training was not to be in all arms as recommended by the Sub-committee. For example, no cadets were to be trained for the Indian Air Force. They had to go to Cranwell for such training. Recruitment for Sandhurst was stopped, though the Defence Sub-Committee, and the Skeen Committee 5 years previously, had recommended that it should continue. Nor was the Sub-Committ's recommendation regarding the establishment of a Military Council carried out. Nothing is known whether the question of any substan-

tial reduction of the number of British troops was ever seriously considered.

395. The following extracts from the opening speech of Sir Philip Chetwode at the meeting of the Expert Committee gives a truer picture of the Military mind at the time than any number of Government reports and resolutions:

> "At the present moment, the young Indian Officers in the eight units have seven years' service. That is obviously not long enough for us to tell whether they are going to be fit to administer and train a unit in peace and lead it in war. In seven more years, however, they will have had fourteen years' service, and by that time I feel pretty certain, we shall be able to give a definite opinion whether they are going to be a complete success or not........ With fourteen years' service, I feel convinced that these young officers will have shown themselves fit or not fit, and it will then be an easy matter to increase Indianisation by Brigades or Divisions, as the authorities of the moment think fit, because by that time they will have no doubts in their minds as to whether they are conducting an experiment or building up an Indian Army that will be a reliable instrument for carrying out the onerous duties of the military forces in India.......... A programme that takes no account of indeterminate factors cannot be of any real value. For instance, between 1918 and 1930, 175 vacancies have been offered and only 153 have been filled. Excluding 42 now at Sandhurst, that leaves 111 who ought to have passed through Sandhurst. Of these, 86 received commissions, but only 71 are actually serving in the Army today. That represents a wastage of 64 per cent, which I think you will agree with me is high."

396. The practical result of all these discussions was that at the outbreak of the war in September 1939 there were not more than 500 Indians holding the King's Commission in the Indian Army, that these officers had less than 14 years' service and were, therefore, of junior rank and belonged mostly to the infantry and cavalry. There was not even one Indian Flying Squadron and the Indian Navy was in its infancy. Even at the end of the war, though the number of Indian Commissioned officers had increased to about 8,000 there were only two Indian Brigadiers, only one of whom commanded a formation in battle. No Indian reached the rank of a Divisional Commander.

397. As soon as the war broke out, the grant of permanent Commissions was discontinued and replaced by Emergency Com-

missions. The pressing need of expanding the Indian Army as rapidly as possible brought about a number of radical changes in peace-time policy. The difference between martial and non-martial races disappeared and recruitment was no longer confined to the North. Indian Commissioned Officers increased from a few hundreds to about 8,000. Their record has proved how unfounded and prejudiced were the fears of those, who distrusted the capacity for leadership of Indians drawn from the so-called non-martial classes. Class and creed have not handicapped the Indian Officers. Officers and men have won imperishable renown in all battlefields whether in Europe, Asia or Africa, and have more than sustained the glorious traditions of Indian valour. British officers have served loyally as subordinates of Indians. The war has thus destroyed manly pre-existing prejudicial notions about martial classes, Indian capacity for leadership and the repugnance of British officers to serve under Indians. And in this good work, the policy firmly pursued by the present Commander-in-Chief, Sir Claude Auchinlek has enormously helped. He summed up the last mentioned aspect himself when, in a speech to the cadets at Dehra Dun, he told them not long ago that "there was no such thing as the British Officer or the Indian Officer in the Indian Army now; there were just officers." During his time there has been a steady increase in the pace of Indianisation. On 31st March 1944, he claimed in a speech in the Council of State that "the proportion of British to Indian officers in the Indian Army proper today is about 1.3 to 1. That does not include British Service Officers who are attached temporarily to the Indian Army for the period of the war. They do not belong to it. They are attached to it to fill gaps. In 1939, that proportion was 5.5 to 1. It is now 1.3 to 1."

398. It remains, however, to be seen how far the gains due to the war will be maintained when the Indian Army reverts to a peace basis. Much remains to be done, also in the Sea and air arms. It was not found possible during the war to man fully even 10 Air Squadrons, in other words, the Indian Air Force was not sufficient for a hundred and twenty machines. The Royal Indian Navy which before 1939 was "practically an unknown service in this country" has greatly expanded in ships and men during the period of the war and rendered meritorious service in connection with the tasks entrusted to it. But its position even among the minor navies of the world is not one on which a great country like India can congratulate herself. We give below an extract from a recent publica-

tion by the Flag Officer Commanding, Royal Indian Navy, which gives some indication of it:

"The accepted stages of development of small Navies are:

Stage 1. Local Defence.

Stage 2. Local Defence plus the first steps in the creation of a seagoing force, e.g., small escort craft as in the Canadian Navy before the 1914-18 War.

Stage 3. Local Defence plus a proper seagoing squadron, e.g., destroyers and cruisers as in the New Zealand Navy.

Stage 4. A small well-balanced Navy, which may include capital ships, carriers, and submarines and will certainly include cruisers, destroyers, and sloops, as in the Australian Navy before the first German war.

The Royal Indian Navy is now in Stage 2 and 1943 and 1944 are years of consolidation during which training and administration have taken priority over expansion. Stage 3 can be contemplated as soon as Japan is knocked out, when better and newer ships will be available from the West to replace those of small fighting value."

Progress in the past has been painfully slow and has to be greatly speeded up if nationalisation of our armed forces up to acceptable standards is to be achieved.

399. We now propose to deal with the suggestions we have made in the hope that accepted principles will take more concrete shape and without delay.

400. Indianisation has two aspects. The first is the replacement of British officers serving in the Indian Army by Indian officers. The second is the replacement of the British forces serving in India by Indian troops.

As regards the first aspect it is clear that the output of the Military Academy is not sufficient to replace annual wastage. But, while more adequate arrangements for Military education are under consideration, it is quite feasible to stop immediately all direct recruitment of British officers for the Indian Army and to fill, as many vacancies as possible, with due regard to years of service and proved efficiency, from the thousands of officers who had obtained emergency commissions and had proved their suitability in war. We have no information as to the measures which Government are taking to offer permanent commissions to such officers. But with such a large field of selection, it should not be difficult to fill all vacan-

cies in the junior ranks from approved candidates. British officers required for vacancies which cannot, at present, be filled by Indians should be obtained by secondment from the British Army. Those British officers who do not belong to the Indian Army and are no longer required for specific appointments should be reverted to the British Army establishment. As Indianisation has now been tested in the crucible of war, it could no longer be regarded as a risky experiment.

401. Training facilities in the Royal Indian Navy have no doubt been increased during the period of the war. The total number of training establishments now is 14, and they provide for about 4,000 men taking courses of all kinds. Towards the end of last year, the officers of the Royal Indian Navy were approximately 50 per cent Europeans and 50 per cent Indian; ratings of course are entirely Indian. But the difficulties of training are still very great and have to be surmounted, though during the last 4 years great progress has been made in starting new places of training and in modernising and bringing them upto date.

402. As regards the Royal Indian Air Force, the following extracts from a paper read before the East India Association, London, by Squadron Leader, the late K. K. Majumdar, D.F.C., on 3rd October 1944 present the picture as a distinguished Indian officer of that service saw it:—

> "India's Air Force is a new and young service. It grew as an experiment, out of the general scheme for Indianisation of the fighting services. Formed in 1933, it consisted, at the outbreak of war, of a single squadron with 13 officers and 260 airmen. It was equipped with Wapiti and Hart aircraft—out of date even in those days.
>
> The Indian Air Force now is over 20,000 strong, and supplies one-fifth of the personnel in the South-East Asia Air Command. There are 10 operational squadrons, and behind them a full complement of maintenance and training units. Apart from this increase in size the Indian Air Force has been supplied with, and fully trained in the use of, modern aircraft and equipment to the same fine standards as the Royal Air Force.
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> * * *
>
> The I.A.F. is entirely Indian in composition. If we seek assistance from British personnel they remain in the Royal Air Force and are merely posted to us. Any Indian can join the Indian Air Force without restriction of class or caste. The men all live and eat together in the same messes without religious

distinctions. The service is drawn from all over India. The actual representation in it by communities and provinces works out roughly in proportion to their relative populations. It is very inspiring to see the success of this mixing and the way in which these men are settling down. Their spirit is best typified in the words of the motto of No. 1 (Indian) Squadron: "Ittehad men sakti hai" (In unity there is srength). As in all of India's fighting services, recruitment is entirely voluntary, and the expansion I have mentioned has been on that basis. The I.A.F. is trained on exactly the same lines and up to the same standards as the R.A.F. and those of the Dominions. A vast training organisation, both for mechanics and pilots, has been built up in India. Over and above this a certain number of Indian pilots are also trained in Canada under the Empire Air Training Scheme, and subsequently given a tour of operations with the R.A.F. in Europe. This is done to widen the basis of experience among our officers."

The defects in the organisation of the Royal Indian Navy due to hurried expansion during the war are, however, only too obvious. It is still, as we have already pointed out, small in size and will, together with the training facilities on which it has to rely, have to be enormously developed for enabling it to discharge adequately its responsibilities for the air defence of an independent India. We cannot do better than quote Wing Commander W. W. Russell in this connection:—

"In order to ensure that India retains a strong and firmly established air force after the war, it will be necessary to broaden and strengthen the foundations on which it is built. The basis of the professional R.A.F. on which the vast edifice of the war-time service has been reared was the cadet college at Cranwell for the officer cadres and the technical school at Halton for the tradesmen. In the same way as India has built up the officer cadres of her magnificent army at the cadet colleges of Sandhurst and Dehra Dun, so the Indian Air Force after the war should be given similar opportunities and should have its Cranwell for moulding the leaders of its future Air Force, and if possible a Halton for the training of its equally important tradesmen and non-commissioned officers."

403. A military institution which will train on the most up to date lines Indians in all Arms, Air, Land and Sea, should be established and its output should be regulated to meet all the needs of

the Indian armed forces, bearing in mind that future recruitment on a permanent basis will be confined to Indians only.

404. If there are defects in the existing organisation of the Army which prevent rapid Indianisation and the creation of a corps of contented and efficient Indian officers, they should be forthwith removed. All exhibitions of racial prejudice should be sternly repressed and every effort should be made to attract suitable Indians to a Military career and to give them every encouragement during their period of service. Nowhere is it more necessary than in the Army that Indian Officers should have no legitimate grievance on the score of race or class. It has been alleged by high Military officers that the present system of education in India does not produce the right type of young men for a military career. We understand that Government have appointed a Committee to examine this question. We, therefore, do not propose to deal further with it beyond stating that such defects as are found to exist, should be removed and not be made the excuse for delaying Indianisation.

405. We further recommend that the University should be brought into closer touch with Army reorganisation and should be regarded as containing suitable material for officering the Army. If the Military training given in the University Officers Training Corps is inadequate and restricted in scope, these defects should be removed and the training corps brought to the same level of efficiency as in English Universities.

406. We have so far dealt with the question of officering the Indian Army with Indians. It is, however, obvious that the creation of a National Army is dependent on many other factors. The Army in India consists of the Indian Army proper and British troops who are recruited in England and sent out for service in India periodically. India bears the full direct charges for their maintenance and also other charges which it is unnecessary to specify. The main duties of the army in India are said to be the preservation of internal security, the covering of the lines of internal communications, and the protection of India against external attacks. For some years to come, while India is building up her national armed forces, including naval and air forces and equipping them on up-to-date lines, she will feel the need for assistance from foreign sources for meeting an external attack by a great power. The organisation of World Security by the United Nations might also necessitate the presence of British forces in India, in view of her great strategic importance in the East from the standpoint of the maintenance of world peace. India will, in view of these conditions, have to enter into a treaty

with Great Britain, but the terms of such a treaty must be governed by the fact that India enters into it as an independent self-governing State, simultaneously with the transfer of full power to her by Britain under the new constitution. The position was clearly appreciated by Sir Stafford Cripps when he said at one of his numerous conferences in Delhi in 1942 that "No Imperial troops will be retained in this country except at the request of, or by agreement with, the new Indian Union." The duty of maintaining internal security —including the protection of Indian States from external foes and internal disorder, which will be inherited from the British as a result of treaty obligations or otherwise—will be the sole responsibility of the new Union Government. It follows from all this that the whole purpose of such British forces as are kept in India in the future will be radically changed. They could no longer be an army of occupation, but they will be an army which will be on the Indian soil by virtue of a treaty between two sovereign States. In these circumstances, the arguments in favour of the retention of a certain proportion of British troops for the purpose of quelling Hindu-Muslim riots or of enhancing the fighting value of Indian troops lose all their validity. It is high time that the whole question of the strength of British troops in India is re-examined in view of impending political changes and the altered conception of the whole problem of Indian defence.

407. We are glad that the present Commander-in-Chief in India is fully alive to the urgency of this problem. He set up some months ago an Expert Committee of Military officers presided over by Lt. Gen. H. B. D. Willcox for carrying out a preliminary investigation of India's defence requirements after the war and making detailed recommendations regarding the size, composition, and organisation of the future army in India. This Committee is still sitting. A representative of the British War Office was reported as having arrived in India in the early part of October 1945 for the purpose of conferring with the Indian Military authorities as regards the future of the armed forces of India. Soon after his arrival, an Associated Press of India message from New Delhi dated 9th October 1945 said as follows:

"India's armed forces will be completely officered by Indians in the near future under proposals which the authorities concerned are believed to be considering. The Indian Air Force is completely officered by Indians; but recruitment of officers from abroad for the Indian Army and the Royal Indian

Navy continues, and figures for 1944 were 46 per cent European officers recruited for the Army and 29 per cent for the Navy.

If effect is given to the new proposals, recruitment from abroad for the Army and the Navy will stop, though foreign personnel may, as in the case of the Indian Air Force, be seconded for training purposes."

On the same date the Associated Press of America cabled from London in the following terms:

> "The current military Conference will discuss matters of first magnitude of military and strategic long-term importance to the Commonwealth, an India Office military spokesman said today. Questions dealing with the speed-up of Indianisation, the substantial multiplication of India's Air and Naval Forces and the mechanisation of India's army are included in the secret agenda. The Conference at the present stage is dealing with matters of organisation, size of the army and conditions of service, but it is not dealing with matters concerning co-operation of the Commonwealth troops. At a later stage, specific matters like expansion of India's fleet, air arm and the disposition and location of troops over regained territories will be taken up. Official sources admitted that the final outcome of the Conference may produce a well-knit strategic plan of elastic defence of the Commonwealth, embodying the experiences gained in the war."

While these departmental moves are a necessary preliminary, we cannot stress too strongly the need for the public being taken into confidence before decisions which would affect Indian interests so profoundly in the future are taken. It would seem necessary that a Defence Policy and Requirements Committee including leaders of Indian opinion should be immediately set up for the purpose of carrying out a comprehensive examination of all problems connected with Indian Defence and the organisation of India's armed forces.

408. It is of the first importance that Indian members of Government should during the interim period have first hand knowledge of the Defence problems which the country will have to face in the future. Nor should the request for non-official help be limited to questions purely of an educational character. There seems to have been a distinct retrogression since the days of Lord Reading in regard to the manner in which Defence policy is settled inside the Government. The Army and its problems have not been treated as vitally national in character. They have not been given the publicity that they obviously require. A change in outlook is now essen-

tial if Indians are to take an intelligent and instructed interest in Military questions. A National Army requires as a condition precedent that the Army must be brought closer to the people and its leaders and should not be segregated as at present. A beginning can be made with the hundreds of thousands of soldiers who will be demobilised. They can be utilised not so much to teach improved methods of agriculture which they probably cannot do, but to interest the people in the Army.

409. The Committee have in clause (5) of their recommendation emphasised that the maintenance of law and order is primarily a police and not a military responsibility. It is well-known that nothing is so distasteful to the soldier as to have to fire on unarmed crowds. But, while this should be recognised, the Military must continue to come to the aid of the Civil power whenever disturbances are so wide-spread or the danger of, or the situation created by an outbreak is so serious as to be beyond the resources of the Police. We are indebted to Rao Bahadur V. P. Menon, C.I.E., the Reforms Commissioner, for a note which explains what provinces have done in regard to the establishment of special police forces for the maintenance of law and order. The note, which gives useful information, is printed in appendix No. 16.

410. Our next recommendation is that the Indian Army should be so reorganised as to maintain a balance between the different arms and that special attention should be paid to the Indian Navy, the Indian Air Force and to mechanisation, and that it should keep itself abreast of modern developments. It is well known that, after 1857, Indian recruitment was confined mainly to the infantry and cavalry. One of the recommendations of the Peel Commission of 1858-1859 was to the effect that Europeans alone, should, as far as possible, be employed in the Scientific branch of the services. In his evidence Lord Elphinstone, Governor of Bombay, said:—

> "I agree with those who think that it is not judicious to train any native of India to the use of guns. They make excellent artillerymen, and they attach great value and importance to guns but these very circumstances make it dangerous to place them in their hands." (Peel Report Papers, Page 45).

Lord Ellenborough concurred in this view and said:

> "The natives have a genius for casting and working guns, and we should not afford them means of enjoying it...... The natives die at their guns. Their practice in this War (The Indian Mutiny) is allowed to have been at least as good as our own."

The Mutiny ghost should now be buried finally. Aptitude and not fear of armed insurrection should be the criterion. Within the limits necesarily imposed by the financial and industrial resources of the country, development should proceed along the most up-to-date lines and in a balanced manner.

411. We are anxious that action on the suggestions which we have made should not be postponed on the ground that every thing must wait till a new Constitution has come into being. We feel confident that if the Government so desire effect can be given at once to some of our recommendations without waiting for the new Constitution, for example, the stoppage of all British recruitment to the Indian Army, the establishment of a new Military college, the improvement of existing University Officers Training Corps and the establishment of others and the like.

412. The Committee's recommendations for the defence of India are on the basis of one Indian Union. The question of the division of India has been discussed fully in a previous chapter and it is unnecessary to point out again the grave risk to the defence of the country that partition would involve. It is a matter of no mean significance that even Sir Reginald Coupland has felt himself compelled, by the logic of facts, to say "that the greatest difficulty of Pakistan and its gravest risk lie in Defence."[1] India's industries are yet largely undeveloped. Her financial resources and industrial organisation and efficiency have to be rapidly stepped up to enable her to recruit, train and equip, according to modern standards, sufficient military forces, which could, on land, sea and air, successfully repel the aggressive designs of a first-class foreign power. The importance of international co-operation for preventing aggression and ensuring the reign of peace and security amongst the nations is one of the striking lessons of the second World War. India has, however, to pass through a period of transition during which her national army is being built up. The arrangement that, during this period of transition, have to be made for adequately defending her from external aggression will be one of the "necessary matters arising out of the complete transfer of responsibility to Indian hands," for which the treaty between India and Great Britain, on the drafting of which the Labour Government claim to have started work already, will have to make provision.

(1) Sir Reginald Coupland Part III P. 95.

413. Since we formulated our recommendations on Defence, in the beginning of April last, and after this chapter was sent to press, the speeches delivered by H. E. Sir Claude Auchinleck, Commander-in-Chief in India, in October 1945, have been published. As they deal practically with all the points connected with the nationalisation of armed forces in India that are covered by our recommendations, we are printing the full text of those speeches collectively as appendix No. 17.

CHAPTER IX

THE MAKING OF THE NEW CONSTITUTION

414. It is now no longer disputed that India's New Constitution should be drawn up by Indians themselves. This was for the first time authoritatively conceded by Lord Linlithgow in his statement of the 8th of August 1940. He then said:—

> "There has been very strong insistence that the framing of that scheme (a new constitutional scheme) should be primarily the responsibility of Indians themselves, and should originate from Indian conception of the social, economic and political structure of Indian life. His Majesty's Government are in sympathy with that desire, and wish to see it given the fullest practical expression subject to the due fulfilment of the obligations which Great Britain's long connection with India has imposed upon her and for which His Majesty's Government cannot divest themselves of responsibility. * * * * His Majesty's Government authorise me to declare that they will most readily assent to the setting up, after the conclusion of the war with the least possible delay, of a body representative of the principal elements in India's national life in order to devise the frame-work of the new constitution, and they will lend every aid in their power to hasten decisions on all relevant matters to the utmost degree."

415. The Cripps offer of 1942 not merely outlined the procedure that His Majesty's Government proposed to adopt in this connection but gave the undertaking that they would "accept and implement forthwith the Constitution so framed." The broadcasts dated 19th September 1945 of the Viceroy and the Prime Minister have given indications of the steps that, on the completion of the Provincial Elections, are proposed to be taken before the setting up of a Constitution-making Body is decided on.

416. The British War Cabinet's Declaration of 1942 has been described as "an offer of self-determination in two senses of the phrase. Not only would the new constitutional settlement enable India to secede, if she wished, from the British Commonwealth and determine her own place in the international world. The Consti-

tution itself was to be framed by Indians and by Indians only."* The offer, however, contained snags which gravely detracted from its value to the people of India. The formal recognition of the right to secede from a Commonwealth of which, at the time of the inception of the New Constitution, India is willing to be a part, is at best of academic interest. Actual secession, which means the severance of all constitutional ties, must find its justification in its being, on the merits, in the best interests of India, and can be successfully implemented only when we have built up strength enough to get away with it.

> "If and when, in the best interests of India and with the support of the large mass of her citizens, we decide to go out of the Empire and our position and strength *vis-a-vis* the world and the Empire are such as to make it unlikely that any Government in Great Britain would, or could successfully, use force to compel us against our will to remain in the Empire, we shall be able successfully to exercise this inherent right in all sovereign peoples whether it is now incorporated in a statute or not."†

417. We would attach greater value to the other aspect of self-determination referred to above, namely, that the Constitution is to be framed by Indians and when so framed will be accepted and implemented by Britain. It is unfortunate that, in the present conditions of the country and in view of the continuance of British Power until the Constitution is framed and a peaceful transfer of power is actually effected, we cannot think of a Constituent Assembly in the strict sense an Assembly which has seized supreme power for the time being, has behind it the sanction of the overwhelming support of all elements in India's national life and will, with the power and resources immediately at its command, be able at once to implement whatever Constitution it decides on. The Constitution-making Body of the Cripps Offer is intended to play the less spectacular role of framing a Constitution which will provide for full self-Government for India, of negotiating a treaty with Britain on a footing of equality and honour and of effecting in a peaceful manner the transfer of all powers necessary for the Government of India from those to whom they belong under the existing Constitution to those to whom they will belong under the new Constitution. Circumstanced as we are, we have no practicable alternative

*** Coupland, Part III, p. 30.**

† Sir N. Gopalswami Ayyangar-Indian Review, Feb. 1944, p. 51.

but to acquiesce in the setting up of such a Constitution-making Body and the role to be assigned to it.

418. The acceptance and implementation of the Constitution settled by the Constitution-making Body is, however, subject, under the Cripps Offer, to the right of any Province or Indian State not to accept the New Constitution but to stand out of it, and either

(a) to retain its present constitutional position, or
(b) to obtain dominion status separately either for itself or in combination with other non-acceding Provinces or States, as the case may be.

The option is to be exercised after the New Constitution has been framed and, ex hypothesi, after all Provinces and States have participated in the framing of it.

419. So far as the Indian States are concerned, their present status in Indian polity and the inherent difficulties of incorporating all of them at once in a Federation on substantially the same footing as the Provinces would seem sufficient justification for their electing to stand out of the Federation until they are able to see their way more clearly. If they so stand out at the start, they should be able—as we have explained in our Chapter on Indian States—only to retain their present status with the inescapable modification that, until they enter the Federation, paramountcy will be exercised not by the British Power but by the new Federal Government of India. The idea of single States or of groups of States being permitted to form separate Dominions of their own—which, in the exigencies of a conversational battle with the representatives of the Princely Order, Sir Stafford Cripps light-heartedly committed himself to in 1942—hardly deserves serious examination. We have pronounced ourselves against it.

420. The graver mischief to the country is contained in the option given to the Provinces. Before examining the details of this option we desire to invite prominent attention to one significant point. The Cripps Offer does not confer the right of secession from the Federation on any unit—Province or State—after it has once acceded to it. This, in our view, is correct policy and we have embodied it in the latter part of our Recommendation No. 6:

> "Nor may any unit, whether a Province or a State, which has acceded, be entitled to secede there from"—i.e. the Federation.

We do not wish to repeat here or to elaborate further the arguments we have set forth elsewhere on the rights of self-determination and of secession. If statutory recognition of the right of secession is

only of academic interest in the case of a loosely bound association of practically sovereign states like those included in the British Commonwealth of Nations, it will constitute a positive political danger in the case of the units of a Federal State in which the Federal Centre "has of necessity not merely to shoulder supremely essential governmental tasks which the units cannot, and it alone can, discharge, but to exercise over the units, supervising, controlling and co-ordinating jurisdiction in legislation and administration in view to ensure the successful functioning of disciplined democratic self-government among them." Secession constitutes a revolt from, and a repudiation of, the Constitution. It is in essence, therefore, an extra constitutional act. It would be against commonsense for the Constitution to recognise it as a legal right to be unileterally exercised at the option of the Unit. To quote Professor W. K. Hancock:

> "It is illogical that any society, whether of men or of nations, should begin by postulating the right of its members to secede from it......... No political society can hope to flourish if its members can flounce out of it whenever it shows a tendency to fulfil the purposes for which it was created."

After stressing the point that a political structure, whether a State or Society or Commonwealth of Nations, has to be founded on a philosophy of social obligation, he proceeds:

> "It would be intellectually incompetent or dishonest to rest it entirely upon a philosophy of individual right. Individual right, whether of men or of nations, has its place in every healthy social theory. But its ultimate expression—as resistance, revolution or secession—cannot honestly be written into the Constitution."*

421. The option given to Provinces in the 1942 Declaration is, however, not described as one of secession but as one of non-accession. This, however, is only verbal camouflage. British India is now a unitary State. Its conversion into a federal State has, when in progress, been arrested by the suspension indefinitely of the federal part of the Act of 1935. Provincial Autonomy has, however, been introduced and all the Provinces and their Governments have been reorganised to fit them as Units of the Federation when it comes to be established. The 1935 Act gave no option to any of the Provinces to elect not to accede to the Federation. No province as such has up to date put forth any claim for any such option. Even the Lahore Resolution of the Muslim League of March 1940 did not make

* W. K. Hancock's Survey of British Commonwealth Affairs, Vol. I, p. 503.

any such claim in favour either of any of the existing provinces or of the existing provinces in general; it only asked for the constitution of independent States in the North-West and North-East zones of India in geographically contiguous areas in which the Muslims were in a numerical majority. And yet the Cripps Declaration gratuitously made this offer to all provinces and in very general terms —an offer which is directly responsible for the growing strength which the agitation for breaking up the unity of India has gathered since. An election on the part of any Province not to accede to the Federation after the Constitution has been framed will in effect be a secession from the "Union of Provinces" which already exists. If, after declining to accede to the New Constitution, a province elects to retain its present status, a separate centre will have to be improvised for it for attending to functions now discharged by the Governor-General in Council! If it and other Provinces acting similarly wish to have a Dominion or Dominions of their own, India would get effectively balkanised! It is extraordinary that a Government in Britain—with all its background of political and constitutional history—should have made itself responsible for a proposal which, if only acted upon in India, would effectively undo the great work of unification that Britain herself has done here for over a century and a half. We are clearly of opinion that the offer of this option was a mistake, if nothing worse, and should be withdrawn. We have accordingly recommended that "no province of British India may elect not to accede to the Union."

422. The Constitution to be framed will be for an Indian Union covering the entire area both of British India and of the Indian States. We are anxious that this Constitution should be framed and brought into force with the least possible delay. To ensure this, we have postponed, for leisurely examination after the New Constitution has commenced to function, two problems to which considerable importance is attached. The first of these has reference to bringing a minimum number of Indian States into the Federation part of the Union Constitution. We do not wish to repeat here what we have said on this point in the Chapter on Indian States. The second problem relates to the redistribution of Provinces. Historical accident and administrative exigencies have contributed to a by no means ideal division of the country into Provinces. We are aware of the strength of the arguments based upon language, culture, and the need for reduction of glaring inequalities in area and population, which call for a rational realignment of provincial boundaries. But such realignment will mean a great deal of time and very careful

investigation and we do not think that the attainment of full self-government should be held up until it is completed. We have therefore recommended:

> "While it is not desirable that the new Constitution should be delayed by the realignment of provincial boundaries on linguistic or cultural considerations, the Constitution Act shall indicate the machinery and prescribe the procedure for such realignment of old Provinces and for the creation of new Provinces after it has come into force and, on such realignment or creation of Provinces, all consequential amendments may be made in the constitution."

423. We shall now turn to the proposed Constitution-making Body. We desire to emphasise at the outset the fact that this Body is to frame a Constitution for a Single State. By its very nature it cannot debate, and reach a decision on, any preliminary issue as to whether a Single Constitution is to be framed for a united India or whether a number of Constitutions are to be framed for the different independent States of a divided India. If the decision should be in favour of the latter alternative, there will have to be as many Constitution-making Bodies as there will be independent States and the Body originally summoned will have to be scrapped! The Cripps Declaration avoided this difficulty by stipulating for the making of a Constitution for a single Indian Union and by giving an option **thereafter** to each unit to accede or not to accede. We have argued against this option already; it would be anomalous that the decision of a Constituent Body should not be binding on the units who participate in the deliberations, especially if such a Body is to function as a plenary body with full power to negotiate and execute a treaty with His Majesty's Government. If this view of ours is acceptable, the alternative that the protagonists of division will ask for is that the issue of one or more independent States should be decided before the Constitution-making Body is set up. Whether this issue is to be allowed to be raised at all and, if raised, by what Authority, machinery and procedure it should be decided, are matters which will require consideration, if at all, independently of the Constitution-making Body. We, as a Committee, have emphatically pronounced ourselves against the division of India into two or more independent sovereign States and, as a necessary corollary thereto, we accept the Cripps proposal, viz., the setting up only of one Constitution-making Body charged with the function of framing a Constitution for a single Union for all India, but with no option to any of the units to back out of it after its final terms have been settled by the Body.

424. The Composition of the Constitution-making Body is provided for in Clause (d) of the Cripps Declaration, which is as follows:

> "(d) The Constitution-making Body shall be composed as follows unless the leaders of Indian opinion in the principal communities agree upon some other form before the end of hostilities:—
>
> Immediately upon the result being known of the Provincial Elections which will be necessary at the end of hostilities, the entire membership of the Lower Houses of the Provincial Legislatures shall, as a single electoral college, proceed to the election of the Constitution-making Body by the system of proportional representation. This new body shall be in number about 1/10th of the number of the electoral college.
>
> Indian States shall be invited to appoint representatives in the same proportion to their total population as in the case of the representatives of British India as a whole, and with the same powers as British Indian members."

In our Recommendation No. 3, we have suggested certain modifications. The first of them is that the total strength of the Constitution-making Body shall be 160 in round figures. The electorate proposed is to consist of the entire membership of the Lower Houses of Provincial Legislatures. The actual number of members of these Lower Houses comes to 1585. For our purposes we have taken the number to be 1600, one-tenth of which is 160. We have provided 16 seats for the Special interests, viz., Commerce and Industry, landholders, universities, labour and women. We have discussed in a previous chapter the desirability of representation at the present stage of these special interests, though it must not be understood that we stand committed to the representation of special interests for all time. We have provided 51 seats for Hindus excluding Scheduled Castes, and an equal number for Muslims. Similarly we have provided 20 seats for the Scheduled Castes; 7 for Indian Christians; 8 for Sikhs; 3 for Backward areas and tribes; 2 for Anglo-Indians; 1 for Europeans; and 1 for others. We would add that we must not be understood to have ignored the Parsis and we should be very glad if the one seat suggested for others was given to a representative of the Parsis who are probably the smallest important minority.

425. In clause (2) of our Recommendation, we explain our reasons for providing for parity between the Muslims and the Hindus other than the Scheduled Castes, in spite of the great disparity in the population strengths of the two communities. We have done

so in the first place because under the Cripps Proposals the entire membership of the Lower Houses of the Provincial Legislatures will function as a single electoral college and proceed to elect the Constitution-making Body on the system of proportional representation. That necessarily means election by a Joint Electorate and not by separate electorates. We attach so much importance to the system of joint electorates and we are so much opposed to the system of separate electorates that we are prepared to advise, in the interest of promoting communal unity, that the Hindus other than Scheduled Castes should agree to this parity between themselves and the Muslims. We are fully aware that our proposal relating to parity has been severely criticised in certain Hindu quarters. It has been equally strongly criticised in certain Muslim quarters, where it has been suggested that the parity conceded by us is not real or genuine. We are equally conscious of the fact that so far as the Muslims of the League are concerned they look upon separate electorates as sacrosanct. We have, however, already discussed at length the mischief that has been done to the body politic in India by separate electorates. We are looking forward not without hope to a future which may be very different from the immediate past, a future where distrust and suspicion may be replaced by a spirit of co-operation and of dedication to the service of the common motherland. Realising, though we do, that the parity which we have recommended has also been subjected to severe but by no means ill-founded criticism by the Hindus, we yet believe that our proposal can be defended on grounds of national harmony and the imperative need for the breaking of that deadlock which has hitherto paralysed all national activities and made the task of starting a new constitution so difficult.

426. We have attempted to fix only the quotas that may be allotted, out of the total British Indian strength in the Constitution-making Body, to special interests and to the different communities. We do not rule out the possibility of distributing these quotas among the Provincial Legislatures and leaving them separately, each as a joint electorate, to return the number assigned to it by the system of proportional representation. This will be a departure from the Cripps Scheme of a single electoral college for the whole of British India, but it might be a desirable departure as the persons chosen for a Constituent body of this description should also look upon themselves as representatives of the units which are to combine in establishing the Union.

427. In our Recommendation No. 3, no reference is made to the

representation of Indian States in the Constitution-making Body, but we have throughout our Scheme taken it for granted that the Indian States will become integral parts of the proposed Indian Union. They should therefore necessarily be adequately represented in the Constitution-making Body. We were at a disadvantage —as we have pointed out already—in dealing with the question of Indian States representation in detail as they were not as such represented in our Committee. We would, however, express our strong hope that the representation on a population basis to be given to the Indian States in the Constitution-making Body will be as arranged as to be acceptable not merely to the Rulers but also to the people of the States. We realise the difficulty of the problem but it has got to be faced. We would point out that the Cripps Offer by-passed this problem. But, while it is satisfactory to note that in his broadcast dated 19th September 1945, Lord Wavell recognised the need for tackling it and announced that "discussions will also be undertaken with the representatives of the Indian States with a view to ascertaining in what way they can best take their part in the Constitution-making Body," we can see no reason why these discussions should not be undertaken at once or why they should wait until the provincial elections had been completed.

428. Clause (3) of our Recommendation No. 3 provides that no decision shall be valid unless it is supported by 3/4th of the members present and voting. In actual working, this should safeguard, in our opinion, the special rights and privileges, if any, of the various interests and communities which will be represented on the Constitution-making Body. For, even assuming that the entire number of the members of a particular interest or community, or of one or two minorities vote in one way, that by itself will not be sufficient to validate the resolution unless 3/4ths of the members present vote in its favour. For instance, if the entire body of 210 members—including a probable 50 for Indian States—is present and a resolution is passed, which some of the minorities object to, such resolution will not be valid unless 158 members vote in its favour. In our opinion this should prove a very effective safeguard against undue lobbying or canvassing, arising out of narrow sectarian or sectional considerations.

429. In clause (4) of our Recommendation we have provided that the valid decisions of the Constitution-making Body shall be accepted by His Majesty's Government and enacted by Parliament. It may, however, be that in regard to certain matters the requisite majority may not be available. If this should be the case in regard

to any particular matter, we suggest that it shall be the duty of His Majesty's Government to give an award in regard to it. It may be urged that His Majesty's Government would not like to give such an award, but we consider that His Majesty's Government, being in power with effective sanctions behind it, cannot abdicate their responsibility for a fair decision in matters of this character. To persist in the attitude that under no conditions will His Majesty's Government shoulder the responsibility that naturally attaches to the possession of power will practically amount to defeating all attempts at Constitution-making. A rigid insistence on an agreement being reached on all matters of contention by all the elements in Indian national life—especially when the Constitution-making Body has demonstrated the impossibility of such agreement—will only confirm the suspicion that disagreements of this kind are made the excuse for the prolongation of foreign rule. We are not here suggesting that His Majesty's Government should impose a Constitution in regard to everything upon an entirely unwilling India, but we only ask that, in regard to some matters which have been discussed by the Constitution-making Body and agreement with the prescribed majority has been found to be impossible, His Majesty's Government should, for the sake of peace and harmony and for the sake of the successful framing of a self-governing constitution, give their award which should be accepted by all concerned. We would much rather that His Majesty's Government played their part in this way than that a reference should be made by way of arbitration to other governments or to any outside body.

430. We would like in passing to refer to one criticism of our recommendation in respect of the Constitution-making Body, namely, that the position which our Committee has adopted is inconsistent with its advocacy of adult suffrage for the Union Assembly to be brought into existence under the new constitution. It is argued that, if adult franchise is a sound and workable proposition with reference to future legislatures, there is no reason why it should be avoided in elections to the Constitution-making Body. From an ideal, theoretical point of view there may not be much to say against this criticism, but it must be borne in mind that so far as adult franchise is concerned, it is not there at the present moment. If electoral rolls are to be prepared at once on the basis of adult franchise, the existing Constitution will have to be amended or special parliamentary legislation enacted for the purpose. The preparation of the rolls themselves thereafter will take a considerable time. According to Lord Wavell "It is not possible to under-

take any major alteration of the franchise system. This would delay matters for at least two years." Much as we would desire a Constitution-making Body elected on adult suffrage, we are clearly of the opinion that in the existing state of things in India, nothing can be more dangerous than protracted delay in framing and starting a new Constitution.

431. We are aware also that competent students of Constitutions and experts in the art of drafting them have stressed the desirability of entrusting the task to a much smaller body than the one proposed in the Cripps Offer. Sir Maurice Gwyer, a great authority on constitutional questions, raised this point in a remarkable speech at the Benares Hindu University Convocation so early as 1939. We make no apology for giving the following extract from his speech on that occasion:—

"Different countries have made trial of different methods, and I am aware that at the present time many people in India feel a special attraction to the method known as the Consituent Assembly. Here my theme comes so close to current politics that even before an academic audience I hesitate to do more than record the principal instances where Constituent Assemblies have been convoked and tested. But I may be permitted at least to make this observation. The Constituent Assemblies, elected on a wide franchise, which have sought to combine the securing of unity among diverse elements with the writing of the new constitution itself, have not always had a happy result. The Constituent Assembly after the French Revolution ended in committees of public safety, in Napoleon, and in twenty years of war. The experiment repeated sixty years later produced another Napoleon, war and a disastrous defeat. Of the German National Assembly at Frankfurt in 1848, an English historian has written: 'It was patriotic, ambitious, laborious, quick to resent foreign injuries, solivitous to extend German power, and notable as having created the original nucleus of a German navy. After elaborate discussions characterised by a high seriousness, it produced a democratic constitution for United Germany, of which there was no feature more valuable than a long array of scrupulous provisions for the protection of personal liberty. Yet its work was in vain. It is one of the tragedies of modern history that this Assembly, launched on a vast surge of national enthusiasm, was unable to accomplish its self-appointed task, and that the union of Germany was achieved, not by the give and take of Parliamentary argument, but by the blood and iron of civil and foreign war.' The constitution produced by the Assembly at Weimar in 1919 did not

even survive to be extinguished by the present war, but had died long since. The Russian Constituent Assembly, elected in 1917 by the votes of 45 million people, met only once. The Bolshevik minority withdrew after the refusal of the Assembly to discuss a Bolshevik declaration. The Assembly proclaimed Russia to be a Democratic Federative Republic and then adjourned; but before the day appointed for the second sitting, the Soviet Executive Committee had decreed its dissolution and their soldiers barred all approaches to the place where the Assembly should have met."

"The French National Assembly did indeed produce a constitution on paper, but it failed and was succeeded by a dictatorship, because, intoxicated with theory, it took no account of realities. Its nineteenth century successor repeated the error and suffered the same consequences. The German Assemblies of 1848 and 1919 were neither of them strong enough to persuade or master their discordant elements; and the Bolsheviks were determined from the first that the Russian Assembly should be extinguished at the earliest moment, and that the will of the minority should prevail."

"By way of contrast, it is profitable to look at the procedure adopted for the purpose of bringing into existence the constitutions of Canada, Australia and South Africa. In Canada, the idea of a federal constitution had been familiar for many years before the British North America Act; but the scheme which finally issued in the Act originated in 1864 at a conference of Ministers from the Maritime Provinces, and from Upper and Lower Canada, then united in a single Province. The resolutions adopted by the Conference were approved in Upper and Lower Canada in the following year, and a delegation visited London to discuss defence and other matters. In 1866 the legislatures of the Maritime Provinces approved the scheme, and, after a meeting in London between Canadian representatives and the British Government, the terms were finally agreed upon and the Act became law in 1867. In Australia, a Federal Council with very limited powers had been set up by Statute as long ago as 1885, and the idea of federation had never lacked support. At a Conference held in Sydney in 1891, each Australian State sent delegates and passed a number of resolutions. In 1895 a Premiers' Conference agreed that ten delegates elected by the electors of each State should meet to draft a constitution, to be afterwards submitted to a referendum in each. The Convention met in 1897 and drafted a constitution which after consideration by the different parliaments was finally completed in 1898 and submitted to a referendum in each State. The draft was considered by another

Premiers' Conference which suggested amendments for the purpose of meeting criticisms; and after discussions with the British Government an Act was introduced which became law in 1900. In South Africa, the earlier discussions on federation came to an end with the dis-annexation of the Transvaal, and it was not until after the South African War of 1899-1902 that it once more became a living issue. It was forced on South Africa by economic causes, arising from the existence of four co-terminous independent governments, two of them without sea frontiers, with a European population extremely small in proportion to the vast areas which it inhabited. In 1908 a Railway and Customs Conference agreed to recommend that delegates should be appointed to draft a Federal Constitution; and a convention of thirty-three delegates appointed for that purpose met later in the same year. The draft constitution ultimately agreed upon was for a Union, and not a Federation, of South Africa; and in this form it was submitted to and approved by the Parliaments of three States and a referendum in the fourth; and the South Africa Act became law in 1909. Here, then, are three constitutions which became law and are still in successful operation. They continue generally to enjoy the confidence of the peoples for whom they were designed. The important thing to observe is that in each of the three cases the body which hammered out the scheme consisted of a very small number of delegates, and that, though no doubt there were difficulties to be overcome, there was no organised volume of opinion which either refused to co-operate or which recorded its dissent from the scheme ultimately adopted."

"In a body of delegates such as I have described, men come to know each other better, to appreciate the strong points of another's case and to realise the weaker points of their own. The impact of mind upon mind has its effect, and after some time (such is the experience of those who have taken part in transactions of the kind) a sort of corporate sense is born, out of which there may emerge, if not a common will, at least a common desire to produce results. I do not say that this always or necessarily happens, but it can and does happen, for it is impossible for a body of men to labour together with a common object for any considerable period of time, without asperities becoming softened, misunderstandings lessened and mutual respect engendered."

Sir Reginald Coupland also has emphasised the desirability of having a body of small size and the need for ensuring secrecy in its deliberations.

432. There is considerable force in what Sir Maurice Gwyer and Sir Reginald Coupland have said. But we consider that a clear line requires to be drawn between the debating of issues of vital importance, the obtaining of agreement and the taking of decisions thereon, on the one side, and the actual drafting of the sections and clauses of the Constitution in which those decisions are to be embodied on the other. The former is the work of a deliberative body of adequate size, representative of all parts of the country and of all elements in national life; neither the size nor the composition of the Constitution-making Body proposed in the Cripps offer and accepted by us will conflict with these considerations. The later task is best entrusted to a small Committee, a Committee which will command the services of experts in administration and drafting; we have no doubt that the Constitution-making Body will set up committees for this purpose of the required calibre and efficiency.

The demand for a Constituent Assembly cannot, under existing conditions and in view of His Majesty's Government's own commitments, easily be set aside in favour of a body of select delegates sitting round a small table and conducting informal discussions. The merit of the scheme which we favour is that to a very large extent it coincides both with the National Demand and with the publicly announced view of His Majesty's Government.

433. It is well-known that the power of making an amendment is not to be found in the Canadian constitution. Nevertheless it has worked well; but other Dominion constitutions confer constituent powers, that is to say powers for amending the Constitution. We have made provision in our Recommendation No. 20, for the exercise of such constituent powers. Amendments to the Constitution are to be made by the Union Legislature but are not to have effect unless ratified by the legislatures of not less than two-thirds of the Units. We have also indicated the procedure to be followed in this regard. When it is intended to make a motion in the Union Legislature for an amendment of the Constitution it should be notified to the public and should not be taken into consideration by the legislature until the expiry of at least six months from the date of such notification. No proposal for amendment should be deemed to be carried unless it has secured the support, in each of the two Chambers, of majority of not less than two-thirds of its sanctioned strength. We have further provided that no amendment shall be considered to be effective unless it has been approved by the legislatures of not less than two-thirds of the Units. These constitute a necessary protection against hasty amendments dealing with the substance of the constitution.

We have suggested in addition that, in respect of vital provisions of the constitution, which should be indicated in a separate schedule to the Constitution Act, no amendments can be made for a period of five years, so that the Constitution as passed may have a fair trial and the country may be saved from the turmoil of agitations for amendment immediately after the Constitution takes effect. The fact, however, should not be lost sight of that the power of amending Constitution will be exercised by the Union Legislature which will, according to our scheme, be elected on adult franchise. The defects which creep into the new constitution, provided they are real and genuine and which may be attributable to the Constitution-making Body having been elected on the limited franchise existing at present, can be removed in the early future by amendment of the Constitution carried out in accordance with the procedure prescribed therein.

434. The last sitting of our Committee took place in April 1945 when the German War was not over. Since then, not only has Germany been defeated but also Japan and, therefore, the cessation of hostilities has made the question of the establishment of a Constitution-making Body a very live issue of immediate and urgent importance. As Lord Linlithgow said in his Declaration of the 8th August 1940, "After the conclusion of the war with the least possible delay a body representative of the principal elements in India's national life" would be set up. The expression 'principal elements in India's national life' might be open to the criticism that it is too vague, but the method of electing a Constitution-making Body was suggested in more concrete terms in the Cripps proposals. We have given our blessing to that method with slight adjustments and it should be implemented with expedition. Any delay occurring in this connection as the result of any doctrinaire insistence on mere democratic idealism is to be deprecated. At the same time, we cannot too strongly condemn transparently dilatory tactics on the part of the Authorities on the pretence that though "the draft declaration of 1942 proposed a method of setting up a Constitution-making Body,......His Majesty's Government recognise that, in view of the great issues involved and the delicacy of the minority problems, consultation with the people's representatives is necessary before the form of the Constitution-making Body is finally determined." This preliminary consultation is to take place with representatives of the persons elected to the provincial legislatures in the provincial elections to be completed in April 1946 and the discussions thereat will re-open the whole question of "whether the proposals contained

in the 1942 Declaration are acceptable or whether some alternative or modified Scheme is preferable". This is a deliberate resiling from the position taken up previously by His Majesty's Government, in any case as regards the Constitution-making Body. In the Parliamentary White Paper dated 14th June 1945, they declared that "the offer of March 1942 stands in its entirety without change or qualification." The preamble of clause (d) of that offer says in clear language:

"The Constitution-making Body shall be composed as follows, unless the leaders of Indian opinion in the principal communities **agree upon some other form before the end of hostilities.**" The hostilities are over and no alternative agreed upon has yet been put forward. On the other hand, the indications are unmistakable that there is likely to be no agreement on this question between the major parties in the country. The calling together, under these circumstances, of a preliminary conference of representatives of provincial legislators for the purpose mentioned will only have the effect of throwing the whole of the Cripps offer into the melting pot. If the representatives present at the Conference break up without an agreed decision, as the invitees to the recent Simla Conference did, will His Majesty's Government take a decision of their own and act? It is their obvious duty to do so, provided their professions are genuine that they are determined to do their utmost to promote the early realisation of full self-government in India. If they are prepared to shoulder the responsibility of acting on a decision of their own—in the absence of agreement between Indian parties—they could act at once without calling for any preliminary conference. The recent announcement that such a Conference will be convened has, therefore, given room for legitimate apprehensions that the Simla debacle might be repeated and another excuse, registered for His Majesty's Government being unable to help India achieve self-government and having reluctantly to continue indefinitely their rule over this country. It is to be sincerely hoped that these apprehensions will be falsified in the result.

CHAPTER X

INTERIM ARRANGEMENTS AND CONCLUSION

435. The proposals that in Part I of our recommendations we have made for interim arrangements in the Provinces and at the Centre pending the framing of a new constitution, and its coming into force, will claim our first attention in this chapter.

436. On the 21st March 1945 Lord Wavell left India by air for England for consultations with His Majesty's Government. At a Press conference at the India Office in London the same day, Mr. Amery, the then Secretary of State for India, said that during the Viceroy's visit the question of India's political and constitutional future would be discussed. Referring to the political deadlock he went on to observe:

> "Both the Viceroy and His Majesty's Government have fully shared the anxiety of all reasonable men to see an end to the impasse. It had been constantly in their minds and we have all naturally watched with sympathy the efforts of the Committee under the chairmanship of Sir Tej Bahadur Sapru and look forward with interest to their outcome."

Lord Wavell's talks with His Majesty's Government had been in progress for nearly a week when the Committee met at Delhi for its last session which had been programmed to extend for over ten days. In view of the main purpose of the Viceroy's mission to London and the rapid political developments that the talks he was having there might give rise to, we naturally, at the very outset of our deliberations, considered it to be our first duty to help the emergence of successful results from these talks to the extent that we could. We accordingly held over, for leisurely consideration during the remaining days of the session, the final shaping, and the settling of the text of some of the leading principles of the new constitution on which we had reached tentative conclusions at previous sittings of the Committee; and we concentrated, as soon as we met, on the recommendations we would make for immediate practical action with a view to bring about a solution of the existing political deadlock and to pave the way for the framing of a self-governing con-

stitution. The full text of the resolution we adopted in this connection was sent to Lord Wavell in London by our Chairman in the following cable dated 31st March 1945:—

"The Conciliation Committee now in session here desires me as its Chairman to communicate to you the following resolution which it has adopted unanimously:—

'In view of the internal situation particularly relating to the economic life of the people, and in view of the rapid pace at which international events are marching, and in view of the necessity of India being represented in her own right and by her own representatives at all international conferences, and peace conferences, if any, this Committee strongly recommends that the following steps be taken at once:—

(1) All political prisoners and detenus be released immediately;

(2) India should, by a Royal Proclamation, be declared as independent State and treated as a Dominon equal and in no way inferior to any other Dominion of the British Commonwealth of Nations, even though, pending the framing and coming into force of a new constitution, the Government of India may have to be conducted in conformity with the provisions of the Act of 1935 subject to minimum necessary modifications;

(3) (a) The Proclamation issued in several Provinces under Section 93 of the Act should be withdrawn forthwith and the Legislatures allowed to resume their normal activities,

(b) Popular Ministries should be re-established in those Provinces and allowed to function under the provisions of the Act,

(c) In the formation of such Ministries the Prime Minister, representing the largest single party in the Legislature, should be required, as far as possible, to include in the ministry persons commanding the confidence of other important parties in the Legislature,

(4) In addition to the restoration of autonomy in all the Provinces of British India a National Government should replace the present Executive Council at the Centre. For this purpose the Committee would recommend for consideration the following two alternatives:—

FIRST ALTERNATIVE

(a) Section 5 of the Government of India Act, 1935 should be so amended as to provide for the issue of a Proclamation by His Majesty bringing into being forthwith a Federation of India without insisting on the entry of Indian States as a condition precedent as provided in sub-section (2) of the said section, Indian States being at liberty to accede to the Federation in accordance with the terms of Section 5 of the Act.

(b) Part II of the Government of India Act, 1935, with the proposed amendments should be brought into force and steps taken immediately to hold elections to the two Houses of the Federal Legislature and to appoint a Council of Ministers in accordance with the provisions contained in that part,

Provided, however, that in the formation of such a Ministry the Prime Minister representing the largest single party in the Legislature shall, as far as possible, include in the Ministry persons commanding the confidence of other important parties in the Legislature.

SECOND ALTERNATIVE

Schedule IX of the Act may be continued in force but should be so amended as to provide for altering the constitution and functioning of the Governor-General-in-Council on the following lines:

(a) Except for the Commander-in-Chief, who may continue to be ex-officio a member of the Executive Council in charge of war operations and matters anciliary thereto, the entire Executive Council should consist of Indians commanding the confidence of the parties in the Central Legislature; the provision in sub-section (3) of section 36 which requires that three at least of the members should be persons who have been in the service of the Crown in India for a period of at least 10 years being repealed,

(b) No officials belonging to the permanent services shall be nominated to either House of the Central Legislature. The nominated block in each of the two Houses shall consist entirely of non-officials nominated by the Governor-General-in-Council,

(c) In Schedule IX of the Act the provisions excluding from the control of the Legislature expenditure under the

heads Ecclesiastical, External Affairs, Defence, Tribal Areas and other items incurred by the Governor-General in his discretion, shall be repealed,

(d) The Political Adviser to the Crown Representative should be an Indian with the rank and status of an Executive Councillor, though he may not be a member of the Executive Council,

(e) The decisions as to when the general elections to the Central and Provincial Legislatures should take place should be left to the National Government at the Centre and the popular governments in the provinces.'

The Committee greatly appreciate your initiative in proceeding to London for the purpose, as it believes, of ending the present political deadlock in the country and trusts that the suggestions that it is now making will be of assistance to you and His Majesty's Government in solving the problem that faces you. The Committee is continuing its work."

The Committee concluded its labours as programmed and on the 9th of April 1945 issued to the Press both in India and in England the entire set of its recommendations promising to publish its report on those recommendations after it was ready. The war with Germany was entering its last phase when Lord Wavell arrived in England and came to an end soon after. The pressure of events connected with these developments prevented the Indian problem from receiving expeditious attention in London and necessitated the Viceroy prolonging his stay there till the beginning of June. But during the whole of this period of waiting of nearly two months, the full picture of the results of the deliberations of our Committee was available both to the Viceroy and to His Majesty's Government.

437. On the 14th of June 1945 a White Paper was presented to Parliament containing the proposals of His Majesty's Government "designed to ease the present political situation and to advance India towards her goal of full self-government." These proposals were on the same day explained simultaneously to the House of Commons by the Secretary of State and to the people of India in a broadcast from New Delhi by the Viceroy. The White Paper and the broadcast are printed respectively as Appendices Nos. 13 and 14. The decisions embodied in the White Paper had apparently been taken when the National Coalition Government was in office and had thus had the concurrence of all the British parties, including Labour.

438. Before we proceed further it would perhaps be well to compare on broad lines the proposals of His Majesty's Government with the suggestions made by the Committee in the cable dated 31st March. Both had for their object the removal of the feeling of political frustration which had enveloped the country, the restoration of constitutional governments in the Section 93 provinces and the reconstitution of the Executive Council at the Centre so as to convert it into one commanding the support of political parties and capable of prosecuting the war against Japan, of having India represented at the peace and other international conferences by persons with the backing of the nation, of evolving a really national plan of post-war rehabilitation and development and of initiating and carrying to successful conclusion the steps necessary for the framing of a new permanent constitution. The actual measures outlined by the Government lacked, however, in many respects, the imaginative statesmanship which should characterise attempts to achieve so big and desirable an objective. For example, while we advised the immediate release of all political prisoners and detenus as the first and indispensable step in a programme of real reconciliation, the Viceroy relegated it almost to the end of his broadcast and even so announced the immediate release only of the members of the Congress Working Committe leaving "the final decision about the others ......to the new Central Government, if formed, and to the provincial Governments." These latter releases are yet to be completed.

439. We attach great importance to the immediate declaration of India as a Dominion by Royal Proclamation. It is difficult to appreciate why the British Government have so far failed to respond to this suggestion. We made it clear that during the interim period, this need make no difference in the legal status of India and that the Government of the country might continue to be carried on under the provisions of the Act of 1935 until a new constitution is framed and brought ino being. Writing on this matter in its issue of 14th April 1945, the "New Statesman and Nation" said:

> "Next it (i.e., the Sapru Committee) calls for a Royal Proclamation which should declare India an independent State in no way inferior to any other Dominion, even though the framing of its constitution may be subject to some delay. This is a valuable suggestion, for it would be perhaps the best evidence we could give of our sincerity."

The major parties in the country are all committed to winning complete independence. It is Britain's case now that she will not stand in the way of India achieving this status but she adds that the Do-

minion Status enjoyed by a member of the British Commonwealth of Nations amounts to full independence. There is even now no clear statutory or other definition either of a Dominion or of Dominion Status. We may perhaps describe Dominion Status roughly as an expression which is intended compendiously to indicate the constitutional and international position of the territorial community concerned. The content of this expression cannot be gathered either from the Statute of Westminster alone or from the reports of the 1924 and 1930 Imperial Conferencs alone.

> "The Statute taken along with other rules of strict law could supply an adequate definition of the legal status of the Dominions; the reports taken along with other non-legal rules could supply an adequate definition of the conventional status of the Dominions; but it requires the correlation of the two elements to describe the **constitutional** status of the Dominions, and it is this constitutional status which is denoted by the term 'Dominion Status'. "*

We do not wish to deal at length with what may be treated as the net result of such a correlation. It is sufficient here to invite attention to what the Balfour Report of 1926 as fundamental to the conception of Dominion Status. It declared that "Equality, so far as Britain and the Dominions are concerned, is thus the root principle governing our inter-Imperial relations." It, however, frankly recognised that the then existing legislative, executive and judicial forms did not wholly conform to this status of equality. Steps were, therefore, soon after taken to remove these inequalities, whether the result of law or of convention, but these cannot be said to have yet been eliminated altogether. There are still in existence legal and conventional inequalities between Great Britain and the Dominions as a class and between one Dominion and another as regards its relations with Great Britain. The Statute of Westminster

> "does not remove the legal inequalities with which it was concerned to the same extent in respect of each of the Dominions ....Thus it comes about that those legal inequalities of status which convention was powerless to nullify and which only a statute could remove still persisted in some degree after the passing of the Statute of Wesminster."†

To the same effect are the observations of the late Professor A. B. Keith:

* The Statute of Westminster & Dominion Status by K. C. Wheare (1942) P. 4.
† The Statute of Westminster and Dominion Status by K. C. Wheare (1942) P. 302.

"This conventional limitation of Imperial control nevertheless left in being a mass of legal restrictions which might be deemed to fetter the Dominions. To claimants of national sovereignty like Mr. Cosgrave, General Hertzog, or Mr. Mackenzie King, these restrictions presented an inconvenient anomaly, and it was the work of the Conference from 1926 to 1930 and the Statute of Westminster to abolish them, so that the internal sovereignty of the Dominions might stand out unquestioned. The issues affected were complex, and even yet the establishment of complete sovereignty in the sense of independence of Imperial intervention is not wholly complete."*

440. The inequality is, of course, much more pronounced in the case of India both in law and in convention, and stares one at every turn. But the 1942 Declaration of His Majesty's Government has adopted the language of the Balfour Report of 1926. The object of the steps they then desired to be taken was, they said, "the creation of a new Indian Union which shall constitute a Dominion associated with the United Kingdom and other Dominions by a common allegiance to the Crown, but equal to them in every respect, in no way subordinate in any aspect of its domestic and external affairs." The interpretation of that Declaration by Sir Stafford Cripps during his stay in New Delhi in March-April 1942 showed that the objective was what Lord Linlithgow once described as "Dominion Status of the Statute of Westminster variety." We ask for the declaration of India as a Dominion by Royal Proclamation only as an immediate and interim gesture. We are quite aware of the many legal provisions and non-legal conventions which now exist and which conflict with the enjoyment by India of that equality of status, in the constitutional and international spheres, which is her due. We have not asked for the immediate inclusion of India in the definition of Dominion in section 1 of the Statute of Westminster. Such inclusion will make hardly any difference. For, as K. C. Wheare has put it,

"The fact that a community is described in section 1 of the Statute as a Dominion does not necessarily mean that that community possesses Dominion Status; nor, on the other hand, does the fact that a community is not enumerated in section 1 prove that that community is not a Dominion. In 1933 Newfoundland, for example., ceased to possess Dominion Status but it continued to enjoy legal enumeration as a Dominion in section 1 of the Statute."†

* Dominions as Sovereign States by Prof. A. B. Keith (1938) p. 62-63.
† The Statute of Westminster & Dominion Status by K. C. Wheare.

We further consider that, if Dominion Status is to give India the independence which her leaders stand for, it will not suffice if it is merely of the Statute of Westminster type; it will have to be something better and more effective in implementing the principle of equality. But the full realisation of this in law and in convention must await the framing of the new constitution. Meanwhile, her designation as a Dominion by Royal Proclamation, coupled with the declaration that steps should speedily be taken for placing India on a footing of equality with the United Kingdom and the other Dominions "in every respect and in no way subordinate in any aspect of its domestic and external affairs" is, in our opinion, calculated to compel the elimination—without even waiting for the new constitution—of such inequalities as can be removed by non-legal conventions. While a great deal in this direction is possible even in the sphere of internal sovereignty and of the relations between India and the United Kingdom, there is a large field for the application of this method in reducing inequalities in the inter-Dominion and international spheres. It is the Government of India, even as it is constituted today, that is responsible for foreign affairs and defence. But in the international sphere, India is not able to pull her weight as a full State, because for all external purposes the final decision rests in the hands of the Government of the United Kingdom, and the representatives of the Government of India at international gatherings, therefore, occupy the anomalous position of having to act under British control. India's place in her own right in any international conferences or organisations is in these days quite secure and her importance will grow in the future on account of the changed world conditions as a result of World War II. But even though her delegates to such gatherings in the last few years, including the recent San Fransisco Conference, have asserted India's case with knowledge and vigour, and some of them have even claimed that there were occasions on which they did not vote with the delegation from the United Kingdom, there can be no doubt that in the present constitutional position they are ordinarily unable to function with the same amount of freedom that the representatives of the Dominions and of other nations feel they can. This inequality of status can be very largely and almost immediately removed if the United Kingdom Government desist from exercising the control over the Government of India's representatives which they now do. They will feel themselves forced so to desist, even during the interim period, if there is a National Government installed at Delhi, having adequate political backing, and if India is declared a Domi-

nion. We sincerely hope that even yet this suggestion of ours will be given on the merits the consideration that is its due.

441. Our next recommendation was for the withdrawal **forthwith** of the proclamation under Section 93 from the Provinces where they were in force, the resumption of normal functioning by the legislatures in those Provinces and the reinstallation therein of popular ministries in accordance with the provisions of the Act of 1935 and the Instrument of Instructions to Governors. The new White Paper and the Wavell broadcast made all this, however, contingent upon the plan for the Centre going through successfully, with the result that, when the latter failed, the idea of restoring normal constitutional machinery in the Provinces was also dropped! This, in our opinion, was a blunder for which there can be neither justification nor excuse.

442. The substitution of a truly National Government for the present Executive Council at the Centre is common ground between our recommendations and the plan of His Majesty's Government. We, however, made two alternative suggestions for the formation of the National Government. The first of these proposed bringing the Federation part (Part II) of the Act of 1935 into force without insisting on the accession of Indian States and forming a Federal Executive in accordance with the provisions of the Act. In the light of the developments that have since taken place, we consider that no useful purpose will be served by our discussing the merits of this alternative. It has not found favour with His Majesty's Government; nor has it attained any large public support. The scheme put forward by His Majesty's Government is in essentials the same as our second alternative. The Central Government of the country was, under this alternative, to continue to be conducted under the provisions of the Act of 1935 excluding Part II thereof but including Schedule IX. Of the two minor amendments we suggested in this Schedule, only one finds mention in the British plan, viz., the omission of the provision that not less than three members of the Executive Council must have had at least ten years service under the Crown in India. The other is, in our opinion, equally important if, so we thought, the interim arrangement was to mark a further stage in the evolution of Responsible Government, without involving any violent breach in the fences erected in 1919 and 1935 for efficient protection of the State from external danger and for ensuring internal order and good government This additional amendment suggested that the provisions in Schedule IX excluding from the control of the legislature expenditure under the heads,

Ecclesiastical, External Affairs, Defence, Tribal Areas and other items incurred by the Governor-General in his discretion should be repealed. There was no great risk attendant upon agreeing to this, especially in view of the fact that we did not propose to interfere with the power, which will be available to the Governor-General during the interim period, to restore rejected demands for grants if he was satisfied that it was essential for the discharge of his responsibilities. No National Government can act with strength unless it can count upon the willing support of the legislature; and there is nothing which irritates a legislature so much as excluding from its vote large blocks of expenditure and vital questions of high policy, such as those pertaining to defence and foreign affairs.

443. One of the cardinal features of the British plan was that the new Executive Council should be so composed as to give a balanced representation of the main communities, including equal proportions of Muslims and Hindus other than Scheduled Castes. We made no specific reference to communal representation in the Executive in our proposals for an interim government. The balanced representation of the different communities is part of our scheme for the permanent constitution. It is, however, necessary to insist that, in that scheme, the concession of parity between Muslims and Hindus other than Scheduled Castes has, apart from other limiting conditions which have been referred to elsewhere in this Report, been made strictly contingent on the Muslim community agreeing to give up separate communal electorates and to accept throughout in their place, joint electorates with reservation of seats. The grant of the concession in the case of the new Executive Council at the Centre without this condition being fulfilled is, thus, strictly speaking, not in conformity with the spirit of our main recommendation on this issue. We are prepared, however, to acquiesce in it, but only because the arrangement is for a short interim period and such acquiescence will, in the words of the Viceroy, "in no way prejudice the final constitutional settlement."

444. In our cable we recommended also that the Political Adviser to the Crown Representative should be an Indian and have the rank and status of an Executive Councillor, though he could not under the existing law be formally a member of the Executive Council. Not only is there no reference to this functionary in the British plan but both the White Paper and the Viceroy, with somewhat undue insistence, drew pointed attention to the fact that nothing in the new proposals will, in the language of the White Paper, "affect the relations of the Crown with the Indian States through the Vice-

roy as Crown Representative" or, in the words of the Viceroy, meant "any alteration in the relations of the Princes with the Crown Representative." Our recommendation did not propose any immediate alteration of those relations. It was intended to promote close co-operation between the department, which looks after Indian States and which in law was divorced from the Governor-General-in-Council only so recently as 1937 and other departments of the Government of India, to bring them nearer together in day to day administration during the interim period and to pave, the way for the final transition from the present Political Adviser to the Crown Representative to the Minister for Indian States in the Union cabinet (assisted by Indian States Advisers) for whom we have made provision in our proposals for the permanent constitution. We consider it shortsighted policy to underline and unduly emphasise the attempt at the constitutional segregation of the Indian States from the Rest of India, which was commenced in the 1935 Act by the creation of the separate office of Crown Representative. That attempt is doomed finally to fail; to give it artificial encouragement now is not in the best interests either of the States or of their Rulers.

445. Despite the shortcomings to which we have drawn attention above, the British plan was a notable and sincere effort at smoothening the way towards a settlement. The proposals were, therefore, well received throughout the country. High hopes were entertained that the political deadlock which had continued for nearly six years would soon come to an end. The release of the members of the Congress Working Committee, the expectation that other political prisoners and detenus would be set at liberty soon, the invitation extended by the Viceroy, at the instance of Mahatma Gandhi, to the President of the Congress and the general recognition of Lord Wavell's sincerity of purpose produced an eminently favouarble atmosphere for the Conference at Simla which started on the 25th of June 1945. The part played by the Congress at the Conference was, to the agreeable surprise of all right thinking men, characterised by statesmanship, a sense of responsibility and a desire to co-operate with the Viceroy in the implementation of his obviously good intentions. The Muslim League's initial reactions, on the other hand, were characterised by mental reservations which finally developed into a refusal of co-operation, which was the proximate cause of the failure of the Conference. Lord Wavell, with more generosity than accuracy, took the blame for the failure on himself. We do not wish to embark upon thankless task of apportioning blame for this unhappy result. For the purposes of

this report it is sufficient to set out the bare facts relating to the proceedings of the Simla Conference.

446. It commenced its sittings on the 25th of June. The morning session was occupied with questions of procedure, followed in the afternoon by a general discussion. It met again at 11 a.m. on the 26th but adjourned for the day at 12-30 p.m. for the purpose of enabling members to confer among themselves, but during the short sitting of 1½ hours, the Conference appears to have agreed to the Viceroy's proposition that the three principal objectives of the new Executive Council were to be the active prosecution of the war against Japan, the carrying on of the Government of India with all the manifold tasks of post-war development until a new permanent constitution came into being and the taking, as soon as they considered this possible, of all the steps necessary for the framing of the new constitution. On the 27th of June, the Conference met only for an hour and adjourned to the 29th, again to allow time for informal negotiations. When they met on the latter date, the leaders of the Congress and the League informed the Viceroy that an agreement had been found impossible on the question of the strength and composition of the Council. The Viceroy then undertook "to endeavour to produce a solution not based on any formula agreed in advance. I asked the parties to let me have lists of names and said I would do what I could to produce a solution acceptable to the leaders and to the Conference."* The Conference then took a long adjournment until the 14th of July. All the members represented at it submitted lists of names to the Viceroy except the European Group and the Muslim League. Being anxious that the Conference should not fail until he had made every effort towards its success, Lord Wavell drew up a list of names himself—including members of the Muslim League—which would, he thought "have given a balanced and efficient Executive Council whose composition would have been reasonably fair to all parties"* He then sent for Mr. Jinnah and explained to him the lines on which he had proceeded in making his selection. Mr. Jinnah told the Viceroy that the League could not agree to what he had done and "he was so decided that I felt it would be useless to continue the discussion. In the circumstances I did not show my selections as a whole to Mr. Jinnah and there was no object in showing them to the other leaders."* The Viceroy's remark which immediately follows this statement, viz., "The Conference has, therefore failed."* is significant. It is a clear confession that at the time no alternaive was open to him

* Lord Wavell's speech to the Simla Conference dated 14th July, 1945.

but to act on the policy that, on such a matter, the Muslim League's veto is final irrespective of its merits. Whether this attitude was due to Lord Linlithgow's commitment in his declaration of 8th August 1940 or to his own commitment to the Coalition Government in London when he finally obtained their assent to his plan at the end of May or to fresh instructions received from the Caretaker Government during the sittings of the Conference is not a matter whose investigation is of importance for the purpose of this Report.

447. The breakdown caused almost universal regret and disappointment. The convening of a Conference of 21 persons belonging to different parties for the purpose either of obtaining from them an unanimously agreed list of names for appointment to so august a body as the Executive Council of the Viceroy or of discussing with them all a list of selections made by the Viceroy himself, partly out of the panels received from parties represented or individuals present at the Conference and partly of his own choice, is altogether a novel experiment in working constitutions. We would only make the further observation that, when such a Conference is called and is presided over by the Viceroy himself, it is neither right, nor even expedient, that he should avoid the responsibility of taking a final decision on the merits himself.

448. In spite of the breakdown, there were hopes cherished that fresh efforts would be made for a settlement of the outstanding problems. A few days after the failure of the Simla Conference, the results of the general elections in Britain were announced. Mr. Churchill's Government was defeated and the Labour :Party which had secured a big majority assumed power. Within a few weeks thereafter, Lord Wavell was invited again by His Majesty's Government to pay a visit to England for purposes of discussion. He returned to India after a stay of about three weeks in London and, on the 20th of September 1945, broadcast a new scheme from Delhi, with the authority of His Majesty's Government, of their new policy in regard to India. Almost simultaneously Mr. Attlee, the Prime Minister, explained the idea underlying his Government's new move in a broadcast from London. The two broadcasts will be found printed in appendix No. 15. It will be observed that stress is now laid on the steps to be taken for the framing of a permanent constitution and the whole idea of the establishment at once of a new interim Government at the Centre and the immediate restoration of constitutional ministries in the Provinces has been, for the time being, abandoned. Indeed, several Provincial Governors, even before Lord Wavell returned from London, had issued notifications

dissolving the legislatures—a procedure which early indicated that until the new elections took place there would be no normal constitutional government in the Provinces. We think that the decision to postpone for months, if not indefinitely, the establishment of an interim National Government at the Centre was ill-advised. We doubt very much whether the procedure which has been adopted with regard to the Provinces is one which can be justified having regard to the provisions of Section 93 of the Government of India Act and the conditions under which the power of dissolution must be exercised. The non-restoration in the Section 93 Provinces of normal constitutional machinery on the cessasion of hostilities amounts to a violation of the spirit, if not the letter, of the constitution. Suspension of normal constitutional arrangements is the exercise of an extraordinary power for meeting a situation which cannot be otherwise tackled. To continue the exercise of such a power, when that situation no longer exists, offends against the spirit of the constitution. The Congress Ministries resigned in 1939 on the issue of participation in the war. At the Simla Conference the Congress made it clear that it was prepared to take office and to undertake the responsibility of prosecuting the war against Japan. The Congress had already actually resumed office in the North West Frontier Province. The war with Japan had also ended since. The Legislatures in the Section 93 Provinces were still in existence when hostilities ceased. No Governor of any of the Provinces concerned could maintain that, under the altered conditions, the government of his Province could not be carried on—to use the language of Section 93—in accordance with the provisions of the Act of 1935. In the circumstances, it was his clear duty under the constitution to have sent for the leader of the majority party in the legislature and asked him if he could take office and undertake the responsibility of forming a ministry. The omission of Governors to do this and their dissolution of the legislatures many months in advance of any constitutional need for doing so are a sufficient indication that even the existing constitution is not being worked in the spirit in which it was enacted.

449. The present position, therefore, is that there are contitutional governments working in the Punjab, North West Frontier Province, Sind and Assam but that, in big provinces like Bengal, Madras, Bombay, U.P., C.P., and Berar containing populations aggregating to hundreds of millions, there are no ministries in office and all power is vested in the Governors under Section 93. It has been urged that the restoration of ministries in these Provinces

would give them an advantage in the matter of the elections that are to take place in the New Year. We cannot accept the tenability of this view any more than we accept the view that constitutional ministries in the provinces like the Punjab, N.W.F.P., Sind and Assam would give the existing ministries an advantage over other parties. If this contention were conceded, no government could be in office in any democratically governed country during the period commencing with the launching of an election campaign and ending with the declaration of the results of the poll.

450. The policy of the new Labour Government, apart from being unsatisfactory in so far as it is vague and indefinite, is bound to involve considerable delay. It is strange that no action is to be taken for the reconstitution of the Executive Council of the Governor-General until provincial elections have taken place—i.e., at least for another 7 or 8 months. If, as the Viceroy has said, "during the preparatory stage urgent economic and social problems must be dealt with and India must play her full part in working out the new world order," there can be no excuse for this delay. The members of the new Executive Council are, according to the Government plan and the Simla Conference indications, not to be drawn necessarily from members of the Central Legislature, much less from members of provincial legislatures. They have presumably to be outstanding members of the parties, whether they are in the legislatures or not, which have a good strength in the Central Legislature and which can be relied upon to support their men in the Government. The results of the provincial elections will give no help in their choice unless, for placating the Muslim League, it is necessary to await them for the purpose of deciding whether all Muslims in the Executive Council or only the great majority of them should be Muslim Leaguers! The argument that it would be much easier to have agreed settlement at the Centre if ministries were working in the provinces hardly deserves notice. The Simla Conference contained four Prime Ministers of provinces and six ex-Prime Ministers who, if the Conference had succeeded, would have revived the ministries in their provinces, and yet no settlement was reached though the ex-Prime Ministers were all, if anything, in favour of a settlement. The postponement of the reconstruction of the Executive Council of the Governor-General until after the provincial elections are over thus entirely lacks justification.

451. Again it is only after the provincial elections are completed that the Viceroy will hold "discussions with the representatives of the Legislative Assemblies in the provinces to ascertain whether

the proposals contained in the 1942 Declaration are acceptable or whether some altered or modified scheme is preferable." It is not very clear whether the proposals referred to are those connected with the Constitution-making Body alone or refer to all the proposals made in the 1942 Declaration. In the latter case, the whole of the Cripps offer will again be thrown into the melting pot. While no exception can be taken to His Majesty's Government recognising that "in view of the great issues involved and the delicacy of the minority problems, consultation with the peoples' representatives is necessary before the form of the Constitution-making Body is finally determined," it was incumbent on them, in view of what happened in Simla during July, to have taken the public into confidence and told them what was to happen at the end of such consultation if any particular party or group of men adopted an obstructive or intransigent attitude. We note that His Majesty's Government are well aware of the possible difficulties ahead and have given us an assurance that they are determined to overcome them. If this means that the achievement of the object aimed at will not be permitted to be unreasonably vetoed, obstructed or delayed by any particular party, there is something to be said for such fresh consultation. But if, once again, the condition precedent, so thoughtlessly enunciated in the Viceroy's statement of 8th August 1940, which we have discussed in another place, is insisted upon, then it is obvious that all political progress may be held up by the attitude of any party which refuses to agree to any advance excepting on its own terms. This necessarily must lead to a renewed and perhaps permanent deadlock. When that stage is reached, the British Government cannot, in our opinion, evade the responsibility which the possession of power necessarily imposes on them and allow things to drift and the situation to deteriorate.

452. We would briefly refer here to another cable which we considered it necessary to send to the Secretary of State and the Viceroy during our final sittings. It is No. 2 in our list of recommendations and is in the following terms:—

> "In view of the promise of establishment of full self-government in this country at the earliest date, this Committee strongly recommends that no recruitment of non-Indian personnel for the I.C.S. and I.P.S. be made by the Secretary of State because recruits of the required competence are available in this country and the recruitment of non-Indians would prejudicially affect the working of the future constitution."

453. India is now promised full self-government and yet Europeans are being recruited by the Secretary of State to the Indian Civil Service and the Indian Police in the proportion of 50 Europeans to 50 Indians in accordance with the recommendations of the Lee Commission made twenty years ago. The initiative for suggesting any change in this system is now in the hands of the Governor-General acting in his discretion, under sub-section (4) of Section 244 of the Government of India Act 1935. The Governor-General has so far taken no steps to stop the future recruitment of the British or other non-Indian elements to these two key services. There is no dearth of Indian recruits of the highest calibre. Indians have filled with distinction the highest posts to which members of these services could be appointed. The immediate stoppage of the recruitment of the British element will still leave a very large number of British Officers in these two Services for many years to come, and will cause no violent disturbance. The plea that, while the new Constitution Act is in the making or is in the initial stages of its working, no change in the proportion of European recruitment is advisable, is too transparent an excuse for delaying the complete Indianisation of these two services and an indirect method of giving effect to the view of the Joint Parliamentary Committee that "India for a long time to come will not be able to dispense with the strong British element in the Services." We are loath to believe that this obsolete view still governs policy when the whole conception of Indian Government has undergone a revolutionary change. The stoppage of European recruitment forthwith should be regarded as one of the first steps in the early establishment of full self-government in India, which His Majesty's Government are determined to do their utmost to help India to achieve. There could be no better testimony to the British Government's sincerity of purpose and earnestness of effort than that all recruitment to posts in these two Services should henceforth be made in India and that no proportion of the annual recruitment should be ear-marked for non-Indians.

454. We have in our Recommendation No. 21 made an earnest appeal to the country to accept the principles which we have enunciated in our recommendations. We have asked all communities and parties to accept them. Our appeal to the majority parties in Provinces which were, at the time when our resolutions were adopted, administered under Section 93, to assume constitutional responsibility has become useless now in view of the dissolution of the legislatures. Finally, we have made an appeal to the effect that, in the event of our proposals being unacceptable to the various communities and

parties and their failure to reach an agreement on any other basis, His Majesty's Government should set up an interim Government in India and proceed to establish a suitable machinery for drafting the new constitution generally on the principles underlying our proposals, enact it in Parliament and put it into operation at the earliest possible date.

455. We feel it our duty to sound a note of warning against the danger of delay. At a time when, all over the world, statesmen are busy settling internal disputes in every country and establishing new relations between country and country, it would be most unfortunate if the impression was to deepen in India that she cannot, for years to come, hope to achieve that position in the comity of nations to which she is so obviously entitled and that she must continue to occupy, as heretofore, a position of subordination. It is by no means peculiar to India that there are differences among the various sections of the people. We deeply regret them. We earnestly hope that, by the exercise of commonsense and toleration, these differences will be removed, but we also feel that unless effective steps are taken immediately to counter such a development, it will not be long before the average man in India loses his age-old patience with those who eternally point to the existence of these differences as a sufficient excuse or as an adequate explanation for His Majesty's Government not fulfilling their pledges or for not speeding India to realise her destiny.

456. What we have said above does not by any means imply, and should not be taken to imply, that we are not alive to the urgency and necessity of each party and each community adopting a reasonable attitude by placing the interests of the country as a whole above sectional interests and trying to accommodate each other as far as possible. It is in this spirit and in what we consider to be the best interests of the country that we have formulated our own recommendations and framed this Report. It must not, however, be supposed that we exclude the possibility of our proposals being improved upon by others. Excepting on certain fundamental principles, which are, in our opinion, vital to the interests of the country as a whole, we keep an open mind and nothing will please us more than to find that proposals even better than our own are put forward and secure greater agreement. Some members of the Committee had added supplementary, special or dissenting notes on specific points. Where these have not been referred to in the body of the report they are printed at the end of it.

457. We have now reached the end of the discussion of our Recommendations. We express no regret and offer no apology for having arrived at our conclusions. In carrying out the task that we took upon ourselves, we have endeavoured throughout to make, and maintain, a constructive approach to the many knotty problems that confronted us, to investigate them from every angle, to appraise, as dispassionately as we could, every fact, circumstance or conceivable argument, and to reach conclusions which, in our estimation, were calculated to promote the lasting interests of our motherland and were likely to elicit the approbation of thinking Indians.

458. We have unequivocally rejected Pakistan in the sense of one or more independent sovereign States having no constitutional relationship with the rest of India and whether of the yet-to-be-clearly-defined type of the Muslim League or of the more concretised demarcated pattern offered to, but not accepted by, the League. We stand for a single Union of India including the whole of British India and all the Indian States. We have dealt at length with the claims made in the name of self-determination. It is unnecessary to repeat here our case against giving individual provinces or States the right not to accede to the Indian Union. We desire here only to give the observations made quite recently by Mr. Louis Fischer, a keen and discerning American student not only of India but of world affairs and a great friend of Indian freedom. He has said:—

> "The weakest and most dangerous provision in the Cripps Plan is the right accorded to any Province or State not to adhere to the new constitution. No constituent assembly operated on this basis can ever draft a constitution. Any group of provinces or States, indeed any important province, could, by threatening to secede, terrorise and paralyse a Constituent Assembly bent on establishing a free unified India. Any province, certainly several provinces together, could dictate to the assembly by using their right to secede as pressure. This provision, therefore, should be dropped."

459. It is our firm conviction that the future of India lies in adopting a democratic constitution and taking all the risks which a change from the present system of government to a state of real democracy must involve.

460. The ultimate sovereign in a democracy should be the electorate whose function it will be to choose those who are to represent it in the Legislature and the Executive. We have, therefore, felt no hesitation in recommending the adoption of adult franchise. While, under existing conditions, it may be excusable to give communities

divided on religious lines the right to a fair and adequate share of opportunities for service in the legislature and of executive power, we are of the opinion that the aspirants for these opportunities should realise that they hold them in trust for the nation as a whole and should for that reason seek and retain the support of all communities. Apart from the lessons which the history of the last half a century has taught us, the principle that we have just enunciated is the justification for our basic recommendation that separate communal electorates should disappear and should be replaced by joint general electorates with reservation of seats.

461. We have urged that governments in the Provinces and at the centre must be responsible to the legislature. We are persuaded that parliamentary government is not unsuited to India and we have made proposals for working it successfully even with a communally composed legislature and Executive.

462. One of the cardinal features of our scheme is the provision of the amplest possible and most effective safeguards for the protection of minorities. Indeed we would urge upon the majority community, in the highest interests of India, that in dealing with the minorities its attitude should be one not merely of justice but of generosity. It is important that every endeavour in reason should be made to give minorities the feeling that they have nothing to fear at the hands of the majority. The concessions to minorities that we have recommended are inspired by the desire to induce such a feeling. When minorities come to feel in this way, they will adopt a thoroughly progressive attitude and the present spirit of distrust and suspicion will yield to a spirit of mutual respect and co-operation.

463. We have said enough already on the concession we have agreed to of parity of representation between Muslims and Hindus other than Scheduled Castes. Only one further criticism of this concession need here be referred to. It is apprehended in certain quarters that a concession of this kind by the majority may encourage the minorities to make fresh demands and that it may lead to further encroachments on the just rights of the majority. Our answer is two-fold. In the first place, we strongly hope that the minorities will, when they come to think of it coolly, appreciate that what they have obtained is not the recognition of a right inherent in them, but the grant of a concession and that the concession is so big that it would be unfair on their part to try to expand its scope or to use it as a mere stepping stone for further demands. In the second place, if further demands should be made, the majority's capacity for resisting it and for firmly refusing to yield to it will only have been

strengthened by its previous generous gesture. In addition, we have provided for certain fundamental rights and the enforcement of many of these through duly constituted judicial machinery. There is to be also, according to our plan, a permanent standing Minority Commission which will function as a watch-dog for the protection of the interests of the minorities in association with the Executive Government and the legislature. We should welcome any further practical efforts which may be suggested by the minorities themselves at the sittings of the Constitution-making Body.

464. It is far from our intention to minimise or under-rate the importance of the minority problem. Indeed we think that the question has got to be faced squarely on the lines that we have attempted to do; but we have no hesitation in saying that our conviction is equally strong that, while it is one thing to provide for the protection of the interests of the minorities in the matter of their religion, culture, worship, education, economics, life, service and the like, it is altogether another thing to attempt to use minority grievances for breaking up the political integrity of the country. Even if the country is divided, the problem of the minorities will continue to exist and the communal situation will probably then become even more acute than it has been at any time. We must strongly condemn and repudiate the suggestion which has been made in certain quarters that the minorities in the different parts of divided India should be looked upon as hostages. We believe that there is plenty of room for settlement between the major communities on principles of justice, toleration, and fairness and it is in that spirit that we make an earnest appeal to the leaders of the different communities, which will be represented in the Constitution-making Body, to approach the whole question of the future of India.

Tej Bahadur Sapru
M. R. Jayakar
Syed Wazir Hasan
P. K. Sen
S. Radhakrishnan
C. Ramalinga Reddy
N. Gopalaswami
M. Yunus
N. R. Sarker
K. Srinivasan
Tushar Kanti Ghosh
Jagdish Prasad
Sant Singh
Nabi Baksh

Syed Aga Haider
***P. R. Das**
***Foss Westcott**
***Tek Chand**
***Harnam Singh**
***Hemchandra Naskar**
***Sachchidananda Sinha**
+H. P. Mody
+John Matthai
†Maharaj Singh
†Rallia Ram
†M. Ruthnaswamy
†J. Sivashanmugam Pillai
§N. M. Joshi

*These members have signed subject to their note on Residuary Powers.

+These members have signed subject to their note of dissent on Pakistan.

†These members append an explanatory note.

§Signed subject to Note of Dissent.

MINUTE OF DISSENT BY MR. P. R. DAS AND OTHER MEMBERS.

I do not agree with the view of this Committee that residuary powers should be vested in the units. So great is my difference with the Committee on this point that I have ventured to express my views in a formal minute of dissent.

In the course of the discussions on this point, we were referred to the constitutions of America and Australia. In America, the several States constituting the United States of America existed as independent States before the federation. The contests in the Convention of 1787 over the framing of the constitution, and in the country, over its adoption, turned upon the point, how much the several States were willing to give up as the price of federation. It would have been superfluous to confer any power on the States because they retained all powers not actually surrendered by them. It has to be remembered that the powers vested in each State are all of them original and inherent powers, which belonged to the State before it entered the Union. Hence, these powers are **prima facie** unlimited, and, if a question arises as to any particular power, it is presumed to be enjoyed by the State, unless it can be shown to have been taken away by the Federal Constitution. In Australia the position is exactly the same. It is true that the several units constituting the Commonwealth of Australia were not independent; but nevertheless they were self-governing autonomous units.

To apply this argument to India is to forget that for the last 150 years India has enjoyed a unitary form of Government. If India has developed a sense of nationality today, it is because the unitary form of Government has been a strong unifying factor. From unitary form of Government to federation is itself a break with the past; but to vest residuary powers in certain artificial units which were created for administrative purposes, and which have varied from time to time, is to effect such a violent break that it may well lead to chaos.

My own research has satisfied me that the vesting of residuary powers in the States in America has been recognized to be a source of weakness; but two causes enabled America to surmount this

weakness; Marshall, the great Chief Justice of America from 1789 to 1835, and the Civil War. Of the work of Chief Justice Marshall, Bryce says as follows:—

> "It is therefore hardly an exaggeration to say that the American Constitution as it now stands, with the mass of fringing decisions which explain it, is a far more complete and finished instrument than it was when it came fire-new from the hands of the Convention. It is not merely their work but the work of the judges, and most of all of one man, the great Chief-Justice Marshall." ("The American Constitution," Volume I, page 254).

At another place, Bryce says, "From 1789 down till the death of Chief Justice Marshall in 1835 its tendency" (that is, the tendency of the Supreme Court) "was to the extension of the powers of the Federal Government, and therewith of its own jurisdiction, because the ruling spirits in it were men who belonged to the old Federalist party, though that party fell in 1800, and disappeared in 1814". (Page 275). The Civil War was also instrumental in placing large powers in the hands of the centre; (see Bryce, page 336). But even Chief Justice Marshall could not work miracles; and Bryce has pointed out the weakness of the Federal system in Chapter XXIX of his "American Constitution". I quote a very important passage from page 344:—

> "Towards the close of the nineteenth century two significant phenomena began to be seen. One was the increasing power of incorporated companies and combinations of capitalists. **It began to be felt that there ought to be a power of regulating corporations, and that such regulations cannot be effective unless it proceeds from Federal authority and applies all over the Union.** At present the power of Congress is deemed to be limited to the operations of inter-State commerce, so that the rest of the work done by corporations, with the law governing their creation and management, belongs to the several States. The other phenomenon was the growing demand for various social reforms, some of which (such as the regulation of child labour) are deemed to be neglected by the more backward States, **while others cannot be fully carried out except by laws of general application.** The difficulty of meeting this demand under existing conditions has led to many complaints, and while some call for the amendment of the Constitution, **others have gone so far as to suggest that the courts ought now to construe the Constitution as conferring powers it has not hitherto been deemed to include.**"

Bryce then goes to point out that the want of uniformity in private law and methods of administration is a source of great weakness in America. For these reasons it is in my opinion, quite wrong to suggest that the vesting of residuary powers in the States has not worked to the great disadvantage of America as a whole. Such a system is likely to prove highly injurious in India with its numerous centrifugal forces against the few centripetal ones.

It is interesting, in this connection, to turn to the Canadian constitution. The framers of the Canadian constitution had the American constitution before them; but they deliberately vested residuary powers in the centre. Why? Discussions as to the formation of the Canadian constitution were held at a time when the Civil War was going on in America. It was widely believed that the vesting of the residuary powers in the States had strengthened the doctrine of State rights and that this conception was largely responsible for the Civil War. The following observations of Mr. John Macdonald (later Sir John Macdonald), the first Prime Minister of the Dominion of Canada in the course of the debates which were held in the Canadian Parliament on the Quebec resolutions are important:—

> "Ever since the Union was formed, the difficulty of what is called "State rights" has existed, **and this had much to do in bringing on the present unhappy war in the United States.** They commenced in fact at the wrong end. They declared by their Constitution that each State was a sovereignty in itself, and that all the powers incident to a sovereignty belonged to the State, except those powers which by the constitution were conferred upon the general Government and Congress. Here we have adopted a different system. We have strengthened the General Government. We have given the general legislature all the great subjects of legislation. We have conferred on them, not only specifically and in detail all the powers which are incident to sovereignty, but we have expressly declared that all subjects of general interest not distinctly and exclusively conferred upon the local Governments and local legislatures shall be conferred upon the general Government and legislatures. **We have thus avoided that great source of weakness which has been the cause of the disruption of the United States.**"

The United States actually emerged stronger as the result of the Civil War; but the Centre had to purchase sovereignty at a tremendous cost.

My objections to the vesting of residuary powers in the Provinces are many, but I will mention some of them:—

(1) There are many disintegrating forces in the body politic of India today. It seems to me that national salvation depends upon keeping those centrifugal forces under control, and for this purpose a strong Centre with residuary powers is essential.

(2) We cannot visualise today the situation that may arise in post-war India. Post-war planning on a vast scale will be necessary, and the responsibility for it must be undertaken by the Centre. If, in America, it is felt today that there ought to be a power of regulating corporations and that such regulation cannot be effective unless it proceeds from Federal authority and applies all over the Union, can it be doubted that in India we shall rue the day when we solemnly decided to vest residuary powers in the units? We were told that the absence of residuary powers in the Centre is not likely to lead to any calamity, as the Committee proposes to recommend that powers and functions to be assigned to the Centre should include "such other matters or action as may be required for ensuring the safety and tranquillity of India or of any part thereof, or for the maintenance of the political integrity and economic unity of India or for dealing with any emergency". The words "for dealing with any emergency" were introduced when I pointed out that ten years ago no one could have visualised the food situation in Bengal last year and the year before last. But situation may and must arise which may not come within the word "emergency" but which, to be effectively met, must be met by the Federal authority. The wit of man cannot devise a formula which will meet the circumstances that must arise in post-war India. The greatest problem that will face post-war India is the problem of poverty and unemployment. Can it be doubted that this problem cannot be solved except on an all-India basis? Take trade disputes within a unit. I find that the subject of settlement of inter-unit disputes is proposed to be transferred to the Centre; but disputes within a unit may assume such dimension as to affect the body politic of India.

I need not labour the point as most of the members of the Committee are satisfied that the residuary powers should be vested in the Centre; but they propose to vest such powers in the Provinces as a concession to the Muslim view. But the Muslim view is grounded on the fear that the Centre will be dominated by the Hindus and that their interests are likely to be vitally affected if such powers are

vested in a predominantly Hindu Centre. But we are proposing to recommend that Muslim representation from British India in the Centre shall be on a par with the representation to be given to the Hindus, other than Scheduled Castes. In any case, I am not prepared to make a concession in regard to a matter which affects the safety and integrity, and indeed, the sovereignty of India as a whole. Having regard to the constitutional history of India in the last 150 years, I am firmly of the view that if there should be a federation, there should be a federation with a strong military bias. For this purpose, the residuary powers should be vested in the Centre.

P. R. DAS.

I should like to add that the following members of the Committee have authorised me to say that they agree with the view expressed in this minute and that they must be taken to have signed this minute. I attach their original letters to me.

Dr. Foss Wescott, the late Metropolitan of India.

Baksi Sir Tek Chand.

Sardar Harnam Singh

Mr. Hem Chandra Nasker.

Dr. Sachchidananda Sinha has written a separate minute of dissent agreeing with my view and I also attach his minute.

A Note by Dr. Sachchidananda Sinha:—

I would like to associate myself with the opinion expressed above by Mr. P. R. Das that the residuary powers should be vested in the Central Government, and not in the Provinces, or any other units composing the Indian Union. Mr. Das has cited in support of his view a number of eminent authorities, who had expressed themselves with special reference to the condition of Governments of the United States, and some of the great Dominions of the British Commonwealth. But apart from the constitutional authorities cited by Mr. Das, there stands in bold relief the record of Indian history in support of the same conclusion. The outstanding feature of Indian history is that so long as the Central Government has been strong, and capable of controlling the provinces, law and order had reigned supreme, and the State had remained an integral whole; while once the Central authority had weakened, disruption had immediately set in. I need not cite instances, or elaborate the point. I am, therefore, strongly of opinion that in view of the facts and circumstances of the case, it would be a fatal mistake to deprive the Central Government of the residuary powers.

10-4-45. Sd. Sachchidananda Sinha.

NOTES

Note by Raja Sir Maharaj Singh.

Though he prefers joint electorates for all communities in India, including his own, Raja Sir Maharaj Singh, while admitting that the question is one which Hindus (other than Scheduled Castes) are most concerned, thinks that the condition, requiring Muslims to accept joint electorates before parity of representation in the Central Legislative Assembly is conceded to them, should preferably not be imposed.

A Note by Mr. J. Sivashanmugham Pillai.

Though I agree with the Committee in most of its recommendations, yet as I do not see eye to eye with the Committee in some recommendations, I venture to write this note.

In spite of the efforts of Mahatmaji and Mr. C. Rajagopalachari, untouchability, unapproachability and unseeability are seen in India in general and in the Madras Presidency in particular in all their virulent forms. Except in Cities, the phantom of untouchability is still at large in India. Leaving aside the educated people, the mass has not fully awakened to this question. In my Presidency we have enough of legal protection for my caste regarding public wells, public places etc., but in practice they are of very little use. What is required is not legal enactment but change of heart among the caste Hindus. This can only be done by Mahatmaji. Even now in spite of the legal enactment thousands of public wells and public roads are still inaccessible to the depressed classes.

The Congress has done a colossal blunder in giving up office in 1939. If it had not done so, to a very great extent untouchability would have been eradicated and I do not think I would have to write this note of dissent.

I differ from other members of the Committee regarding the method of election recommended to the Scheduled classes. In order to explain this clearly, it is necessary that I should write the history of it. When the Simon Commission visited India, 18 Depressed Classes Associations gave evidence before the Commission; and 16 of these pleaded for "separate electorate" for this caste. One Association—the Bahishkrita Hitakarim Sabha—of which the spokesman

was Dr. B. R. Ambedkar demanded "Joint electorate with reservation of seats." Dr. Ambedkar, in his memorandum, says: Free election in general constituencies is, in the opinion of the Sabha, out of the question so far as the depressed classes are concerned. On the other hand, the Sabha does not wish to ask for communal electorates. In its opinion, it would be sufficient if the depressed classes are provided with reserved seats in the general constituencies" (Indian Statutory Commission, Volume XVI, page 41). Another Association —the Madras Central Adi-Dravida Mahajana Sabha—of which the spokesman was Dewan Bahadur R. Srinivasan demanded nomination. It so happened that the Government selected Dr. Ambedkar and Dewan Bahadur R. Srinivasan, the two gentlmen, who held different views from that of the 16 associations, as the representatives of the depressed classes for the Round Table Conference, with the result, telegrams were sent to the Premier questioning the representative character of these two gentlemen. In the R.T.C. these gentlemen pleaded for separate electorate. If the depressed classes had not agitated against their representation I think Dr. Ambedkar would have demanded joint electorate with reservation of seats. After the two R.T.C.'s Mr. Ramsay MacDonald, the Premier, gave his award on this tardy question. He gave two different awards for the depressed classes, one for the Madras Presidency and another for the Presidencies other than Madras. For Presidencies other than Madras he recommended separate electorate in selected areas but in Madras he recommended separate electorate on territorial basis. This recommendation—separate electorate on territorial basis—is so impracticable that some depressed classes under the leadership of Rao Bahadur M. C. Rajah held meetings and demanded joint electorate with reservation of seats. Mr. Rajah even made a pact with Dr. Moonje, the then President of the Hindu Maha Sabha, for joint electorate. At the time the Justice Party in Madras, in its organ, "The Justice," pleaded for joint electorate with reservation of seats. The reason adduced by the organ was that in the separate electorate the minority community among the depressed classes such as Arunthuthiars, Madikas, Pallas, etc., would not get representation. Then came the memorable fast of Mahatmaji, and as a result of which the Poona Pact was concluded.

In this report on page 220, paragraph 309, Dr. Ambedkar is reported to have said "If the Poona Pact increased the fixed quota of seats, it also took away the right to the double vote." I say this statement is incorrect and does not accord with facts. The Poona Pact has not taken away the double vote. Under this Pact, certain

places where the depressed classes predominate were made the constituencies for the depressed classes. In the rest of the places—which are made as general constituencies—the depressed classes have not only the right to vote but can also contest the seats. In the course of time when adult franchise is given, I am sure, the depressed classes can capture many seats in the general constituencies. The Poona Pact gave a voice for the caste Hindus in the election of the depressed classes.

Of late some people under the leadership of Dr. Ambedkar demand "separate electorate on territorial basis." I may say at once that I am entirely against it. This is impracticable as far as the depressed classes are concerned. The depressed classes are very very poor. If separate electorate on territorial basis is given the constituencies of the depressed classes will be very big. To be more explicit, within the area of a depressed class constituency the caste Hindus who are very rich people will have 4 or 5 general constituencies. Is it just to give to the poor people big constituencies while the rich caste Hindus enjoy small constituencies? Secondly, the places where the depressed classes live (in my Presidency they are called Cherries) are far away from caste Hindu quarters and they are not properly connected by roads. Thirdly, more than 3/4ths of the depressed classes are landless agricultural labourers who are in no way better than serfs. The influence of the caste Hindu landlords on these poor unfortunate people is very great.

Unless and until the depressed classes are made independent of the caste Hindus economically—method of election whether separate or joint—makes no difference at all. So it is the duty of the future Government to improve the economic condition of these people. Here I wish to point out that the depressed classes expected much from Dr. Ambedkar regarding this question. But they are quite disappointed. During the last five years if Dr. Ambedkar had cared he could have induced the Provincial Governments to allot the lands, which were given to people under Grow More Food system, entirely to landless agricultural depressed class labourers. In this connection, I wish to point out that the Sapru Report ought to have laid greater emphasis on these points without caring for the unjust apprehensions of the caste Hindu landlords. Every year, a number of Zamindaries are brought under Court auction. It is the duty of the Central and Provincial Governments to allot a large amount of money in their annual budgets to buy the Zamindaries for the purpose of distribution among these people. Now, to return back to the method of election, I wish to say that though I am

against separate electorate on territorial basis and favour the Poona Pact, I suggest certain modifications in the Pact.

My Recommendation

According to the Pact, the depressed classes have a primary election and the panel for the election is fixed as four. This panel is too wide. So it should be reduced to three. Secondly, certain qualifications should be fixed for the panel candidate, i.e., candidates should not be included in the panel irrespective of the votes they have obtained. I suggest that the second candidate in the panel should have secured at least 90 per cent of the votes secured by the first candidate. And the third should have secured 90 per cent of the second candidate in the panel.

If the second and the third candidates fail to secure the above-mentioned percentage, the first should be declared elected without the second election. If the second candidate in the panel fails to secure 90 per cent of the votes secured by the first, the first candidate should be declared elected irrespective of the votes secured by the third without a second election.

I introduce this qualification for the panel candidate after practical experience. In Ariyalur constituency in the Madras Presidency in the Primary election, one gentleman by name Mr. Siva Pichai secured about 1,500 votes, the second gentleman by name Mr. Maruthai secured about 500 votes. In the second election known as joint election, Mr. Maruthai secured 11,292 votes and Mr. Siva Pichai secured 7,302. This is not a stray case. Wherever primary election took place, the man who has secured the highest number of votes was always defeated by the other candidate in the second election. In order to put an end to this kind of vagaries, I have suggested this modification in the Poona Pact.

In the Sapru Report, I see "that no candidate of the scheduled castes would be deemed to be elected in the panel unless he secured 20 per cent of the votes polled." The defect in this recommendation is that the Committee assumes that all the candidates would secure equal number of votes; but in practice, it is not the case. For instance, A, B, C, and D are elected in the panel. A secures 1,500 votes, B 400, C 50 and D 50 out of the total number of 2000 votes polled. If the recommendation of the Committee is adopted, then C and D will not be included in the panel. A and B will have to stand for the joint election. Where is the guarantee that A who possesses 1500 depressed class members' confidence will be elected as against the man B who possesses only 400 depressed class mem-

bers' confidence? My suggestion is only to safeguard the interest of the depressed classes as against the machinations of the caste Hindus. This does not mean that by adopting my suggestion there would be panel election in all constituencies. But this safeguard will give protection to very popular depressed class candidates who are not in the good books of the caste Hindus. For instance, the man who has socialistic views regarding the land distribution will be very unpopular with the caste Hindus and he will be hated by the caste Hindus.

So once again I strongly recommend my suggestion for the acceptance.

The second recommendation is that the depressed classes should be given in all-India services the facilities that are given to them in the Provincial Services in the Madras Presidency.
Note by Mr. Ruthnaswami.

Note by Mr. M. Ruthnaswami.

I agree to sign this report because on the important questions of the preservation of the political unity of India, the incorporation in the constitution of certain fundamental rights of individuals and corporations, the formation of the Constituent Assembly, parity between Hindus and Muslims in the Legislatures and the Constituent Assembly, federation as the only possible system of government for India, I am with the majority of the Committee. But as I think that the decisions of the majority on some of these questions and others require some modification, I shall sign the report with the following reservations.

1. With regard to the fundamental right No. 4 on page 241 of the Draft Report which runs as follows "All inhabitants shall be free to preach their religion......" I do not know why the word "propagate" which is found in Mr. Rallia Ram's Note was omitted. "Propagate" is more inclusive than "preach" which according to the Oxford New English Dictionary includes only oral propaganda. I do not know if the substitution of 'preach' for 'propagate' was deliberate. But deliberate or not, I would ask for 'propagate' being substituted for 'preach' as it could not have been the intention of the Committee to exclude such forms of religious propaganda as writing, the Cinema, the Radio, Public meetings etc.

2. While welcoming the acceptance of the principle of parity between Hindus (other than Scheduled Classes) and Muslims in the Legislature and consequently in the Executive of the Union, I am afraid, to make it dependent on the Muslims surrendering separate electorates is to take away with one hand what the Committee is giving with another. It is for the Muslims to give up separate electorates when they have learned to place confidence in a general electorate. Parity must be an unconditional grant. And I believe the principle of parity should be extended to the other group of minorities including Scheduled Classes, Sikhs, Indian Christians and Anglo Indians. I would ask as I asked in my Note to the Committee which has not been included among the Memoranda published by the Committee, for 1/3 of the seats in the Legislature and in the Executive of the Union to be given to Hindus, 1/3 to Muslims and 1/3 to the other minorities. Special interests like Commerce, Industry, Labour should find representation in one or other of these categories. Otherwise the balance of representation would be tilted in favour of one or other of these categories. The distribution of representation that I ask for will produce a much more balanced Legislature and Executive than the one accepted by the Majority of the Committee and it would give the Minorities a sense of confidence and security in the new Constitution.

3. A federation of India which does not include the Indian States would be an incomplete and weak federation—especially to start with. A determined effort should be made to bring in at least 10 of the more important States or groups of States into the federation. To give the States confidence and a sense of security in the Constitution they should be assured 1/3 of the representation in the Legislature and Executive of the Union.

4. With regard to the Union or Federal Cabinet, I do not think the first alternative of the form and functioning of the Cabinet will work in India. Collective responsibility to the Legislature pre-supposes the working of the real party-system. Most parties in India are communal in their composition. The Congress which may be considered to be a national party is also a revolutionary organisation resorting every now and then to non-constitutional methods and extra-parliamentary movements. Till a real party system comes into being with parties national and constitutional, divided only by differences of political opinion, the second alternative embodying the chief features of the Swiss Executive is the one that

will work best at the centre as in the provinces. The Swiss form secures a popular and representative executive, elected by the Legislature and therefore presumed to be acceptable to the representatives of the people and to the legislature and at the same time is a stable executive free from the unnerving threat of factious no-confidence motions and other proceedings.

A note of explanation by Mr. B. L. Rallia Ram.

In giving my wholehearted support to this Report, I consider it necessary to append the following note of explanation:—

1. I am in agreement with Mr. P. R. Dass and others who have signed the Minute of Dissent that the best interest of India requires the existence of a strong centre. At the same the freedom of India is so urgent a need that if Muslim support can only be obtained by the weakening of the Centre and giving as complete an autonomy to the Provinces as possible, this sacrifice should be made merely as an expedient. It is a choice between two alternative evils.

2. It is not easy for me to subscribe to the principle of the Communal Composition of the Legislature much less to that of Composite Cabinets. It is my considered view that India can never become an Independent strong nation unless the sense of Nationality is overpowering; Communalism should be routed out and exterminated.

If I, therefore, give my assent to a Report which advocates the continuance of this policy, and even to extend it, it is only with deep regret and merely as a temporary expedient. Under no circumstances would I be a party to this without the introduction of Joint Electorates as the first essential step towards complete nationalisation.

3. I am not wholly satisfied with the safeguards provided for religious minorities. The one safeguard which I consider essential is a Constitutional guarantee of Religious Liberty. *Inter alia*, true Religious Liberty requires that no person should be deprived of his inheritance on changing his faith. A proposal to the effect that no person shall loose his right in his ancestral property by the mere fact of his conversion to an other religion was proposed both in the Minorities Sub-Committee and the General Committee. The Gene-

ral Committee was unable to accept this proposal. It was stated that the inclusion of this Provision in the Constitution would interfere with the personal laws. I beg to point out that Act XXI of 1860 (Caste Disabilities Removal Act) has removed the disability to inherit property imposed upon the Converts by their former Personal law. I consider it necessary that the fundamental principle of the Act above named should be included amongst Constitutionally guaranteed rights. Wherever there is a conflict between the Personal Religious Law of an Indian Citizen and the Principles of Nationality and Freedom, the latter should prevail. In fact this is implied in the provision that "In India there is freedom of religion and conscience. I, however, deem it advisable to make this point clearer and beyond dobut.

4. I am unable to approve of the immediate introduction of Adult Franchise. I recognise that Franchise is an important method of awakening mass consciousness and political awareness. But it must be pointed out that there are grave risks involved.

I would much prefer that Franchise be made much wider than at present and that Adult Franchise be aimed at, to be reached by quick stages. The National Government must inevitably introduce a National System of free and compulsory primary education. By legislating that every primary-passed Adult shall possess the vote and by expediting the introduction and rapid expansion of a system of free and compulsory national education, Adult Franchise stage should be reached within 25 to 40 years.

5. With regard to the suggestions concerning the representation of Christians in the Constituent Assembly, the Sikhs have been given one more seat than the Christians. I readily agreed to this as this was the desire of our Sikh friends and I do not lay much store by the number of seats. It is too small a matter to dispute about in the face of the tremendous problems with which the country is confronted. As a matter of accurate appraisal of the situation, however, I must record that Indian Christians are still the third largest religious group both in India and in the Province. It is, unnecessary to go further into the matter.

6. I should also be failing in my duty if I did not record my profound thankfulness to the members of the Committee for the complete impartiality with which all problems were studied. I am

aware that there is a section of Indian Christians who are afraid to face the future, fearing that they will not receive full justice from their compatriots.

The sympathetic attitude and sincere solicitude of the Sapru Committee, under the inspiring leadership of Sir Tej himself, for the welfare of the minorities should inspire great confidence, and Indian Christians can step forward into free self-governing India with hope and courage.

A note by Sir H. P. Mody and Dr. John Matthai.

We regret we are unable to agree with our colleagues on the issue of Pakistan. Our view is that if a scheme which pre-supposed the political unity of India was not acceptable to the Muslim community, and if the results of the forthcoming elections were to vindicate generally the Muslim League position, separation as a means of ending the present deadlock should not be ruled out. Although in our opinon a division of the country is to be deplored, we should be prepared to consider it if there was no other basis for an agreed settlement. The extent to which, in our opinion, political separation may be accepted as a means of conciliating Muslim sentiment without serious risk to the country, is as follows—

(1) Areas in which there is a Muslim majority of the population to be segregated to form a separate state or states. This may mean district-wise Pakistan, but our study has shown that it is feasible, under such an arrangement, to have large contiguous blocks of territory, demarcated as separate Muslim zones.

(2) These areas to be determined in such manner as to constitute a single contiguous block within the province in which they are situated.

(3) A definite agreement to be entered into by the state or states so formed with the rest of India for co-operation in matters of defence and economic development.

The main objection to separation is that it would hinder the development of the country and imperil its safety. Our views regarding this subject are explained in detail in our Memorandum on The Economic and Financial Aspects of Pakistan, which appears as an Appendix to the Report. If an Inter-governmental Council

were set up to which the constituent Governments will be bound by agreement to refer important matters relating to economic development and defence for mutual consultation before they are put into force, we believe it would go a long way towards safeguarding the interests of the country in respect of these essential subjects. The kind of Council we have in view would consist of an equal number of representatives nominated by each of the two Governments and a certain number nominated jointly by them. We believe that a small Standing Council composed of leading statesmen representing the two Governments and engaged in the day-to-day task of reconciling conflicting points of view would be a valuable instrument for promoting friendly relations.

There would, of course, be no sanction behind such an arrangement except goodwill and a mutual desire for co-operation. This, however, does not necessarily invalidate the scheme. It is now realised, even in countries provided with a federal constitution, that disputes regarding economic and financial matters between Governments could, in most cases, be settled satisfactorily only by the method of conference and consultation. In the relatively static conditions of the nineteenth century, it was possible in framing federal constitutions to set out in advance an exhaustive distribution of Governmental powers, and to provide constitutional means of settling all disputes in regard to them. In the uncertain and rapidly changing conditions which prevail at present and which may be expected to continue for a considerable period, the application of this method will be found increasingly difficult in practice. The ultimate sanction in federal constitutions, as experience has frequently demonstrated since the outbreak of the war, must be mutual goodwill and a desire to carry on. Short of using force, a Province could not be compelled into adopting a line of action to which its government and people were resolutely opposed, and force in such a case would be unthinkable.

We hope, in spite of the growing tension between the communities, that the necessity for separation will not arise. Our anxiety to provide for an alternative solution, if this hope does not materialise, arises from the feeling that as things stand at present, the settlement of our political problems admits of no delay. Issues of great consequences and urgency which may affect the future of India permanently are facing us, and it is of the highest importance that the present political deadlock should not be allowed to con-

tinue and that the direction of Indian affairs should, without further delay, be placed in the hands of Indian leaders who have the confidence of the country.

Note by Sir H. P. Mody.

Dr. Matthai and I have appended a joint Note on the most important issue with which the Committee had to deal, namely, the Muslim demand for Pakistan.

In the present Note, I desire to draw attention to the omission of Parsis in the recommendations made by the Committee for the representation of various communities and interests in the Constituent Assembly, the Union Legislature and the Union Executive. Minorities like Indian Christians and Anglo-Indians are sought to be provided for in all three bodies, and Europeans in one of them. All that Parsis get is a chance of coming in with "others," and an acknowledgment of their position in the political and economic life of India. I would not have raised the issue had not the Committee supported the specific representation of every other community, large or small.

Parsis have been making their contribution to the progress and advancement of the country in every direction without ever seeking for any privileges, and they have no desire to ask for a special place for themselves. It cannot but be a matter of deep disappointment to them, however, when they find that in a Report compiled by some of the most eminent men in the country, and which is inspired by a genuine solicitude for every interest, neither their position as a minority nor their importance as a community has been given any recognition.

Note of Dissent by Mr. N. M. Joshi

I approve of a large part of the Report and of the recommendations made by the majority of the Committee. I do not propose to indicate in this note my dissent as regards details but I shall content myself by stating briefly my disagreement with the vital part of the recommendations involving the problem of the communal settlement and with some other major points of the constitutional problem.

The Committee was constituted as a Conciliation Committee. Its recommendations should, therefore, not only be as much fair and just as possible to all parties and communities but should also be acceptable to as large a section as possible of the members of different parties and different communities. I feel that the Committee should have framed two constructive alternative proposals to solve the Hindu-Muslim problem leaving it to the majorit of the Muslim population and the Hindu population to choose one of the two alternatives, one involving division of the country on as fair a basis as possible, namely, the formula proposed by Mr. C. Rajagopalachari and accepted by Mahatma Gandhi, and the other granting to the Muslim community maximum of protection avoiding the division of the country on the lines proposed by the Conciliation Committee. Such a course would have created a more favourable atmosphere for impartial consideration and perhaps even for acceptance of the proposals recommended by the Committee for the protection of the Muslim community. These proposals of the Committee conceding to the Muslim community parity with the caste Hindus in respect of seats on the Constitution-making body, on the Central Legislature and on the Executive Government and agreeing to the residuary powers being with the Provinces and the creation of a Minorities Commission, involve concessions on the part of the Hindus in favour of the Muslims. But the psychological effect of the Conciliation Committee's declaration against any alternative proposal involving division of the country on the basis of C. R. formula or any other fair basis, will be that the Muslim community, I am afraid, may not consider even the other proposals made by the Committee on their merits. However I shall be glad if my fears do not come true. I consider agreement between the two communities so vital for India's freedom that I would accept any one of the two alternatives on which agreement may be achieved not because I do not see the disadvantages of the division of the country or even of the proposals made by this Committee but because we have reached a state when any delay in securing an agreement will worsen the communal situation and stop the political progress of the country. Lastly Cripps' proposals having included in them, the possibility of the alternative involving the division of the country it is not practical politics to expect the British Government to withdraw that alternative in the absence of any other agreed solution or to expect the Muslim community to agree not to have the choice of that alternative.

I shall deal very briefly about the merit of the two alternative methods of solving the Muslim problem. I agree that an undividual India with a Government based on democratic principles offers the best scope for the political, social and economic development of the people of the country. But I do not share the views of my other colleagues that if the country is divided even on some fair basis into independent states sufficiently large to sustain modern civilised governments, the progress of the people need be stopped. On the contrary, I feel that the proposals made by my colleagues in their various recommendations by way of concessions to the Muslims and other minorities will make the constitution undemocratic and unworkable and will create vested interests which it will be difficult to abolish in the future and will make the progress of the people in every direction very difficult. The proposals of the majority of the Committee to provide Hindu Muslim parity and the weightage given also to the other minorities have been made on the basis of giving less than their due share to the Scheduled castes and to the aboriginal tribes and will not promote democracy. Moreover in the future it will be easier to bring about co-operation between the Pakistan and the Hindustan than to secure the consent of the minorities to give up the weightage which will be given to them at this time. The same difficulty will be felt as regards the provisions of giving statutory representations to all minorities on the Executive Governments and the residuary powers being vested in the Provinces. If we accept the proposal to divide the country on a fair basis, these undemocratic and unworkable features of the constitution may be avoided or at least may be reduced to a smaller proportion. For these reasons if I have a choice I would rather accept a fair scheme for Pakistan rather than have the proposal made by the majority of the Committee. Of course, I have made it clear that if an agreement can be secured I shall accept any one of these two schemes as agreement is the most vital need of the hour for the immediate freedom of the country.

As regards the other features of the concessions proposed by the majority of the Committee I wish to state that although if general agreement is secured I shall accept their proposals even as they are, I feel that the majority has given too much importance to secure joint electorates in the place of separate electorates. I do not like separate communal electorates but I would prefer separate electorates if we can avoid unreasonable weightages especially as they are sought to be given at the cost of the Scheduled castes and the aboriginal tribes whose need for special protection is much greater than the need of

other minorities. I have already stated in my remarks on the Report of the Scheduled-Castes Sub-Committee that I would leave the decision to the majority of the members of the Scheduled castes as to whether they should have separate or joint electorates. I would also provide representation to the aboriginal tribes in proportion to their population in all representative bodies.

As regards the other constitutional points I shall only mention that I do not like the establishment of a Second Chamber for the Legislature, I would have a much larger Legislative Assembly than is proposed by the majority and I would not require the concurrence of the Indian States Advisers in respect of certain matters as is provided in Recommendation 12. I did not raise these points during the discussion in the Committee as I felt that the most vital question before the Committee was that of conciliation by finding a way for the communal settlement.

APPENDIX No. I

The Conciliation Committee

QUESTIONNAIRE

ADOPTED AT THE MEETING OF THE COMMITTEE, AT DELHI, ON 29TH, 30TH AND 31ST DEC. 1944.

PART I

1. What are the fundamental rights which should be incorporated in any future constitution of India? What machinery would you suggest for the enforcement of such of those rights as are not justiciable (enforceable by a court of law)?

2. (a) What steps are, in your opinion, necessary to secure an adequate share and equal opportunities in legislatures, executive governments and the services for Hindus, Muslims, Scheduled Castes, Indian Christians, Sikhs, Anglo-Indians, Parsis and other important sections of the population?

(b) Would you recommend in the case of minorities the establishment of (i) minorities' standing committees of legislatures, or (ii) independent minorities' commissions to deal with those rights which are not enforceable by a court of law? If so, indicate their composition, powers and procedure and their relations to the legislatures and executive governments.

3. Have you any suggestions to make for the adequate and early advancement of the Scheduled Castes, aboriginal tribes and those who are classified as backward classes in the Government of India Act, 1935, with a view to enabling them to enjoy equal opportunities in the social, educational and economic spheres of national life?

PART II

1. (a) What are your views regarding the claim of the Muslim League, as expounded by Mr. Jinnah in his letter to Mahatma Gandhi dated September 25, 1944, for the establishment of an independent Pakistan state "composed of two zones, north-west and north-east, comprising six provinces, namely, Sind, Baluchistan, the North-West Frontier Province, the Punjab, Bengal and Assam, subject to territorial adjustments that may be agreed upon, as indicated in the Lahore Resolution"?

(b) If you are agreeable to the establishment of such an independent state, (i) on what principles should its territorial adjustments and boundaries be determined and (ii) what machinery would you suggest for such determination?

(c) Do you consider that a plebiscite should be taken to decide whether an independent state of Pakistan should be established, and if so (i) should it be taken in the provinces mentioned above as they exist at pre-

sent or after territorial adjustments? (ii) What should be the electorate, method and machinery of such a plebiscite?

1. If you favour the establishment of a single union for all-India (a) consider it necessary to make arrangements and devise machinery for the administration of defence, foreign affairs and like matters of common interest, and if so, indicate the nature of the requisite arrangements and machinery.

3. In case you do not agree to the Muslim League claim for Pakistan, what alternative scheme would you suggest?

PART III

1. What are your views on the question of the inclusion of Indian States in an all-India union?

PART IV

1. If you favour the establishment of a single union for all-India (a) on what lines should the functions of Government be divided between the centre and the units? (b) Should the residuary powers vest in the centre or in the units?

2. (a) Should a province of British India or an Indian State be given, as contemplated in the Cripps' offer, the liberty of not acceding to the new constitution of an all-India union?

(b) Should the exercise of this liberty be subject to the result of a plebiscite, and in that case, what should be the electorate, method and machinery for the plebiscite?

(c) If your answer to (a) is in the affirmative, at what stage and under what conditions should this liberty be allowed to be exercised?

3. After an all-India union is established, should the units of the union be given the right of secession from it and, if so, on what conditions?

4. Would you favour the realignment of the boundaries of the units in order to ensure, as far as possible, self-expression and cultural autonomy to different communities.

PART V

1. (a) What should be the nature and type of the provincial and central executives? Should it be parliamentary or non-parliamentary, removable or irremovable?

(b) Do you think it necessary to secure representation of different communities in the provincial and the central executives, and, if so, how would you achieve this end?

2. What provisions would you suggest in relation to the composition of the central and provincial legislatures which would provide adequate representation for different communities and interests? Indicate your views, regarding (a) franchise, (b) electorates, (c) constituencies, (d) method of election (direct or indirect), and (e) allocation of seats.

3. What provisions would you suggest for making amendments in the future constitution?

PART VI

1. What constituent machinery (with details of composition, powers and procedure) would you suggest for (a) framing and enacting the new constitution; and for (b) the transfer of power to the authorities established under the new constitution.

PART VII

1. Until such time as the new constitution comes into force, what changes would you suggest in the character, composition and working of the Executive Council of the Governor-General, either by suitable legislation or by the adoption, wherever necessary, of suitable conventions? (In this connection, attention is drawn to clause (e) of the Cripps proposals, reproduced below.)

PART VIII

1. In the event of failure to agree on the part of different communities, would you suggest that His Majesty's Government should frame and enact a constitution for India, or what other course would you suggest?

THE FOLLOWING IS CL. E. OF THE CRIPPS PROPOSALS

"(e) During the critical period which now faces India and until the new Constitution can be framed, His Majesty's Government must inevitably bear the responsibility for and retain the control and direction of the defence of India as part of their world-war effort but the task of organizing to the full the military, moral and material resources of India must be the responsibility of Government of India with the co-operation of the peoples of India. His Majesty's Government desire and invite the immediate and effective participation of the leaders of the principal sections of the Indian people in the counsels of their country, of the Commonwealth and of the United Nations. Thus they will be enabled to give their active and constructive help in the discharge of a task which is vital and essential for the future freedom of India."

APPENDIX No. II

RECOMMENDATIONS

INTERIM PROPOSALS

PART I

1. INTERIM ARRANGEMENT

In view of the internal situation particularly relating to the economic life of the people, and in view of the rapid pace at which international events are marching, and in view of the necessity of India being represented in her own right and by her own representatives at all international conferences and peace conferences, if any, this Committee strongly recommends that the following steps be taken at once:—

(1) All political prisoners and detenus be released immediately;

(2) India should, by a Royal Proclamation, be declared an independent state and treated as a Dominion equal and in no way inferior to any other Dominion of the British Commonwealth of Nations, even though, pending the framing and coming into force of a new constitution, the Government of India may have to be conducted in conformity with the provisions of the Act of 1935 subject to minimum necessary modifications:

(3) (a) The Proclamations issued in several provinces under Section 93 of the Act should be withdrawn forthwith and the Legislatures allowed to resume their normal activities,

(b) Popular Ministries should be re-established in those provinces and allowed to function under the provisions of the Act,

(c) In the formation of such Ministries the Prime Minister representing the largest single party in the Legislature should be required, as far as possible, to include in the ministry persons commanding the confidence of other important parties in the Legislature.

(4) In addition to the restoration of autonomy in all the provinces of British India a National Government should replace the present Executive Council at the Centre. For this purpose the Committee would recommend for consideration the following two alternatives:—

FIRST ALTERNATIVE

(a) Section 5 of the Government of India Act, 1935, should be so amended as to provide for the issue of a Proclamation by His Majesty bringing into being forthwith a Federation of India without insisting on the entry of Indian States as a condition precedent as provided in subsection (2) of the said section, Indian States being at liberty to accede to the Federation in accordance with the terms of Section 6 of the Act.

(b) Part II of the Government of India Act, 1935, with the proposed amendments should be brought into force and steps taken immediately to hold elections to the two Houses of the Federal Legislature and to appoint a Council of Ministers in accordance with the provisions contained in that part.

Provided, however, that in the formation of such a Ministry the Prime Minister representing the largest single party in the Legislature shall, as far as possible, include in the Ministry persons commanding the confidence of other important parties in the Legislature.

SECOND ALTERNATIVE

Schedule IX of the Act may be continued in force but should be so amended as to provide for altering the constitution and functioning of the Governor-General-in-Council on the following lines:—

(a) Except for the Commander-in-Chief who may continue to be ex-officio a member of the Executive Council in charge of war operations and matters ancillary thereto the entire Executive Council should consist of Indians commanding the confidence of the parties in the Central Legislature: the provision in sub-section (3) of section 36 which requires that three at least of the members should be persons who have been in the service of the Crown in India for a period of at least 10 years being repealed.

(b) No officials belonging to the permanent services shall be nominated to either House of the Central Legislature. The nominated block in each of the two Houses shall consist entirely of non-officials nominated by the Governor-General-in-Council.

(c) In schedule IX of the Act the provisions excluding from the control of the Legislature expenditure under the heads Ecclesiastical, External Affairs, Defence, Tribal Areas and other items incurred by the Governor-General in his discretion, shall be repealed.

(d) The Political Adviser to the Crown Representative should be an Indian with the rank and status of an Executive Councillor though he may not be a member of the Executive Council.

(e) The decision as to when the general elections to the Central and Provincial Legislatures should take place should be left to the National Government at the Centre and the popular governments in the provinces.

2. RECRUITMENT

In view of the promise of establishment of full self-government in this country at the earliest date, this Committee strongly recommends that no recruitment of non-Indian personnel for the I.C.S. be made by the Secretary of State, because recruits of the required competence are available in this country and the recruitment of non-Indians would prejudicially affect the working of the future constitution.

PART II

3. THE CONSTITUTION-MAKING BODY

The Constitution-making Body shall be constituted in the manner prescribed in Clause D of the Draft Resolution of His Majesty's Government brought by Sir Stafford Cripps subject to the following modifications:—

(1) The total strength of the body shall be 160 distributed as follows:

Special interests, viz., Commerce and Industry, land-holders, universities, labour and women	16
Hindus, excluding Scheduled Castes	51
Muslims	51
Scheduled Castes	20
Indian Christians	7
Sikhs	8
Backward areas and tribes	3
Anglo-Indians	2
Europeans	1
Others	1

(2) It is because Clause D of H.M.G.'s Declaration provides for election by a joint electorate composed of members of all the Provincial Legislatures under the system of proportional representation, that the Committee has decided to recommend that, in spite of the disparity in the population strengths between Muslims and Hindus other than Scheduled Castes, the Hindu community should, in the interests of promoting communal unity, agree that the representation of the Muslim community on the Constitution-making body shall be on a par with that given to Hindus other than Scheduled Castes.

(3) No decision shall be valid unless it is supported by 3/4ths of the members present and voting.

(4) His Majesty's Government shall enact the Constitution on the basis of the valid decisions of the Constitution-making Body supplemented wherever necessary by its own awards on matters in which the requisite majority for decision was not forthcoming.

We agree to this Recommendation subject to the following note:—

Out of the total of 144 seats in the Constitution-making Body, exclusive of the 16 seats reserved for special interests, Muslims have been given by this Recommendation 51 seats. According to their total population strength, which is only 27%, they are entitled only to 38.8 seats. The excess of 12 seats is taken out of the quota of the seats for Hindus (other than Scheduled Castes).

Similarly, the other minorities, i.e., Sikhs, Indian Christians, Anglo-Indians, Europeans and others, who constitute jointly about 3½% of the total population, and are, on that basis, entitled to five seats only, have been given by the Recommendation 19 seats; the excess of 14 seats being again taken out of the quota of Hindus (other than Scheduled Castes).

Notwithstanding this depletion of the Hindu quota which this Recommendation causes, we have thought it advisable to agree to its terms for the reasons mentioned in clause 2 of the Recommendation. The consideration which has weighed with us in doing so is the fact that the Hindus, Muslims and other groups will vote together in the same electorate, to which circumstance we attach the greatest value as contributing to the ultimate evolution of national unity. We wish, however, to make our view clear that we are opposed to the repetition of such depletion in any other body in the constitution, and if it is to prevail in the Central Legislature, it can only be on the condition that the Muslims agree to joint electorate throughout as provided in another recommendation.

(signed) M. R. Jayakar
Jagdish Prasad
Tek Chand
P. R. Das
P. K. Sen
S. Radhakrishnan

PART III

LEADING PRINCIPLES OF NEW CONSTITUTION

4. DIVISION OF INDIA

The Committee, having considered carefully the resolution of the Muslim League passed at Lahore in 1940, the various other resolutions of the League and the published version of the talks between Mr. Jinnah and Mahatma Gandhi and having also considered the C. R. and Gandhi proposals, is emphatically of opinion that any division of India into two or more separate independent sovereign states is unjustified and will endanger the peace and orderly progress of the whole country without any compensating advantage to any community, and that the political unity of India should, therefore, be maintained.

5. INDIAN STATES

Provision should be made in the constitution for the accession from time to time of Indian States as units of the Union on such terms as may be agreed upon. The establishment of the Union should not however, be made contingent on the accession of any Indian State or of any minimum number of Indian States. The Union should be brought into being and should commence to function at the earliest possible date, even if no Indian State has acceded to it as a unit by then.

6. NON-ACCESSION AND SECESSION

No province of British India may elect not to accede to the Union nor may any unit, whether a province or a state which has acceded be entitled to secede therefrom.

7. PROVINCIAL BOUNDARIES

While it is not desirable that the new Constitution should be delayed by the realignment of provincial boundaries on linguistic or cultural considerations, the Constitution Act shall indicate the machinery and prescribe the procedure for such realignment of old provinces and for the creation of new provinces after it has come into force and on such realignment or creation of provinces, all consequential amendments may be made in the constitution.

8. HEAD OF THE STATE

The Committee submits the accompanying suggestions for the consideration of the Constitution-making Body. They have been placed before the Committee by one of its members who has great experience of the administration of Indian States and of the working of the Government of India Act (1935) in relation to them. As the Indian States are not represented on this Committee and as the suggestions are of a very vital and far-reaching character, the Committee has thought it desirable to express no opinion on the merits of the several alternatives suggested, beyond stating that a clear definition of "a Head of the State" is necessary, as the several resolutions adopted by the Committee assume the existence of a Head of the State and the exercise by him of certain powers and functions. The member responsible for these suggestions agrees that they or any variant of them involving the participation of the Indian States cannot be finally adopted except with the consent of the Indian States.

(1) There shall be a Head of the State (i.e., Union) in India who shall be the repository of

(a) all such powers and duties as may be conferred or imposed on him by or under the Constitution Act, and

(b) such other powers as are now vested in His Majesty the King of England, including powers connected with the exercise of the functions of Crown in its relation with Indian States:

provided that, in relation to his powers, the Head of the State shall conform to the traditions, usages and conventions which are binding on the constitutional head of any State.

(2) The office of Head of the State shall have a tenure of five years, and ordinarily no person may hold the office for more than one term.

FIRST ALTERNATIVE

(3) The Head of the State shall be elected by an electoral college composed of the members of the two Houses of the Union Legislature either without any restriction as to their choice or subject to their choice being confined to the Rulers of Indian States, having a minimum population or revenue or both, to be named in a schedule to the Constitution Act.

SECOND ALTERNATIVE

The Head of the State shall be elected by the Rulers of the Indian States referred to above from amongst themselves.

THIRD ALTERNATIVE

The Head of the State shall be appointed by His Majesty the King of England, on the advice of the Union Cabinet, either without any restriction as to his choice or subject to his choice being confined to the Rulers of the Indian States referred to above.

(4) In case the third alternative in para (3) is adopted and a link with the British Crown is maintained, the Secretary of State for India together with all the control that he or the British Cabinet exercises over Indian administration should, in any case, be abolished.

(5) The Head of a unit, other than an Indian State, shall be appointed by the Head of the State on the advice of the Union Cabinet.

9. UNION LEGISLATURE

(a) The Union Legislature shall consist of the Head of the State and two chambers—the Union Assembly and the Council of State.

(b) The strength of the Union Assembly shall be so fixed that there shall be on the average one member for every million of the population.

(c) Ten per cent. of the total strength shall be reserved for the representation of the following special interests:—

Landholders.
Commerce and Industry.
Labour.
Women.

(d) The remaining seats shall be distributed among the following communities:—

(1) Hindus, other than Scheduled Castes.
(2) Muslims.
(3) Scheduled Castes.
(4) Sikhs.
(5) Indian Christians.
(6) Anglo-Indians.
(7) Other communities.

(e) (i) In case the Muslim community on their part agree to the substitution throughout of joint electorates with reservation of seats for

separate communal electorates and in that case only this Committee would recommend that, in the interests of promoting national unity, the Hindu community should agree that in the strength of the Central Assembly excluding the seats allotted to special interests, such as commerce and industry, landholders, labour, etc., Muslim representation from British India shall be on a par with the representation given to the Hindus (other than Scheduled Castes) in spite of the great disparity in their respective population strengths.

The Committee desire to emphasize their view that if this recommendation is not to be implemented in its entirety the Hindu community should be at liberty not merely not to agree to the claim for parity of representation but to ask for a revision of the Communal Award.

(ii) The Committee considers that the representation given to the Sikhs and Scheduled Castes in the Government of India Act is manifestly inadequate and unjust and should be substantially raised. The quantum of increased representation to be given to them should be left to the Constitution-making Body.

(f) For the Union Assembly there shall be adult franchise, for seats other than those reserved for special interests.

(g) For the special interests, there shall be special constituencies.

(h) There shall be direct election to the Union Assembly. As for election to the Council of State, the question shall be decided by the Constitution-making Body.

10. DISTRIBUTION OF POWERS

Lists of the matters, in respect of which the power of making laws for peace, order and good government and the functions pertaining to the administration of those laws shall fall within the spheres respectively of the Centre and the Units, shall be embodied in the Constitution Act. The detailed drawing up of these lists should be left to the Constitution-making Body. The Committee, however, would recommend that the following principles, among others, should guide the Constitution-making Body in the distribution of powers and functions between the Centre and the Units:—

(a) The powers and functions assigned to the Centre should be as small in number as possible, provided that they shall in any case include

(i) matters of common interest to India, as a whole, such as Foreign Affairs, Defence Relations with Indian States, Inter-unit communications, Commerce, Customs, Currency, Posts and Telegraphs.

(ii) settlement of inter-unit disputes;

(iii) co-ordination where necessary of the legislation and administration of different Units;

(iv) such other matters or action as may be required for ensuring the safety and tranquillity of India or any part thereof or for the maintenance of the political integrity and economic unity, of India or for dealing with any emergencies.

(b) While all matters not assigned to the Centre exclusively or concurrently must be declared to fall within the sphere of the Units, a list of these should, for greater certainty, be given in the Constitution Act with the rider that all residuary powers—those not included in either of the two lists—shall vest in the Units.

(c) All customs barriers between one Unit and another shall be abolished and there shall be free trade within the Union, provided that, where the abolition of existing customs barriers affects prejudicially the finances of a Unit, it shall be entitled to adequate compensation out of the revenues of the Union.

We have agreed to this Recommendation which involves among others the weakening of the Centre and the vesting of residuary powers in the Units. On merits, we are opposed to these concessions to the Muslim demands, but, in response to the hope entertained in some quarters that these concessions may lead to a settlement between the two communities —Hindus and Muslims—and also to the solution of the deadlock, we agree to this Recommendation, it being clearly understood that, if such a settlement does not take place as expected, then our agreement to this resolution will not operate as a commitment.

New Delhi,
5th April 1945.

(Signed) M. R. Jayakar,
Jagdish Prasad.

11. UNION EXECUTIVE

(a) Subject to the provisions of clause (b) the executive of the Union shall be a composite cabinet in the sense that the following communities shall be represented on it, viz.,

(i) Hindus, other than Scheduled Castes.
(ii) Muslims.
(iii) Scheduled Castes.
(iv) Sikhs.
(v) Indian Christians.
(vi) Anglo-Indians.

(b) The representation of these communities in the executive shall be, as far as possible, a reflection of their strength in the legislature.

(c) The cabinet shall be deemed to be duly constituted notwithstanding the absence from it temporarily of representatives of any of the communities mentioned in clause (a). Where on account of a whole community refusing to join or remain in a cabinet that community goes without representation therein, the vacancies may, pending the availability of members of that community, be filled by appointment of members of other communities and the Cabinet commence or continue to function, provided it commands a majority in the legislature.

(d) The cabinet shall be collectively responsible to the legislature.

(e) The cabinet shall be led, guided and held together by a Prime Minister who shall ordinarily be the leader of a party which by itself or

in combination with other parties is able to command a stable majority in the legislature. A convention should be created that the offices of the Prime Minister and the Deputy Prime Minister should not be monopolized by any one community.

(f) The other members of the cabinet shall be appointed on the advice of the Prime Minister.

(g) One of these Ministers shall be designated Deputy Prime Minister and it shall be a standing rule that the Deputy Prime Minister shall not belong to the same community as the Prime Minister.

ALTERNATIVE

(a) Subject to the provisions of clause (b) the executive of the Union shall be a composite cabinet in the sense that the following communities shall be represented on it, viz.,

(i) Hindus, other than Scheduled Castes.
(ii) Muslims.
(iii) Scheduled Castes.
(iv) Sikhs.
(v) Indian Christians.
(vi) Anglo-Indians.

(b) The representation of these communities in the executive shall be, as far as possible, a reflection of their strength in the legislature.

(c) The Cabinet shall be deemed to be duly constituted notwithstanding the absence from it temporarily of representatives of any of the communities mentioned in clause (a). Where, on account of a whole community refusing to join or remain in a cabinet, that community goes without representation therein, the vacancies may, pending the availability of members of that community, be filled by appointment of members of other communities and the cabinet commence or continue to function, provided it commands a majority in the Legislature.

(d) The cabinet shall be elected by the Central Legislature in a joint session by the system of the single transferable vote. The elected Ministers shall hold office for the duration of the Legislature. The Legislature shall elect from among the Ministers a President and a Deputy President who shall not both belong to the same community.

12. MINISTER FOR INDIAN STATES

There shall be a Minister in charge of the functions in relation to Indian States and with him shall be associated a body of persons not less than three and not more than five in number who shall be called Indian States' Advisers and who shall be chosen in the manner agreed upon with the Indian States. The Minister shall consult the Indian States' Advisers in all important matters and shall obtain their concurrence in respect of certain matters to be specified in the Constitution Act.

13. JUDICIARY

(1) There shall be a Supreme Court for the Union and a High Court in each of the Units.

(2) The strength of Judges in each of these Courts at the inception of the Union as well as the salaries to be paid to them shall be fixed in the Constitution Act and no modification in either shall be made except on the recommendation of the High Court, the Government concerned and the Supreme Court and with the sanction of the Head of the State provided, however, that the salary of no Judge shall be varied to his disadvantage during his term of office.

(3) (a) The Chief Justice of India shall be appointed by the Head of the State and the other Judges of the Supreme Court shall be appointed by the Head of the State in consultation with the Chief Justice of India.

(b) The Chief Justice of a High Court shall be appointed by the Head of the State on the ground of misbehaviour or of infirmity of mind Chief Justice of India.

(c) Other Judges of a High Court shall be appointed by the Head of the State in consultation with the Head of the Unit, the Chief Justice of the High Court concerned and the Chief Justice of India.

4. A Judge of a High Court or a Supreme Court shall be appointed for life subject to an age-limit prescribed by the Constitution Act but he may by resignation addressed to the Head of the State resign his office.

5. (a) A Judge of a High Court may be removed from office by the Head of the State on the ground of misbehaviour or of infirmity of mind or body, if on reference being made to it by the Head of the State, the Supreme Court reports that the Judge ought on any such grounds to be removed.

(b) A Judge of the Supreme Court may be removed from office by the Head of the State on the ground of misbehaviour or of infirmity of mind or body, if on reference being made to it by the Head of the State, a special tribunal appointed for the purpose by him reports that the Judge ought on any such grounds to be removed.

6. As regards other matters connected with the appointment and functioning of the Judiciary, the provisions embodied in Part IX of the Government of India Act of 1935 seem suitable with such modifications as may be required for being fitted into the framework of the new Constitution.

14. DEFENCE

The Committee strongly recommends that under the new constitution there should be a portfolio of Defence which should be held by a Minister responsible to the Legislature and that the actual control and discipline of the Army should be placed in the hands of a Commander-in-Chief under the new Government.

The Committee further recommends that a national army should be created and developed as rapidly as possible. It is unable to suggest at this stage what the strength of this army should be as this will depend, apart from the vital question of finance, on a number of other factors, such as, the nature of the post-war world settlement and the efficacy of the international organization for the maintenance of world peace.

Among the measures which should be adopted for the creation of such an army, the Committee recommends the following:—

(1)-(a) Such British units as temporarily may be required for the efficient defence of India and such British officers as may be needed for officering the national army until an adequate number of Indian officers becomes available shall be obtained by a treaty or agreement entered into between the Union Government and His Majesty's Government specifying, among other things, the terms and conditions of their employment by the Union.

(b) As soon as the war is over, all direct recruitment of British officers to the Indian Forces should cease. Such British officers as do not belong to the Indian Army and are not required for specific appointments should be reverted to the British Army establishment.

(2) An institution should be established for the training in sufficient numbers of officers of all the three arms—Air, Land and Sea—and all defects existing in the present system which prevent rapid Indianization or the creation of Indian officers capable of assuming leadership should be forthwith removed.

(3) If it is found that the present educational system does not produce a sufficient number of young men suitable in every respect for a military career steps should be taken at once to remove this defect.

(4) The University Officers Training Corps should be established where they do not exist and largely expanded and measures taken not only for ensuring supply of officers to fill vacancies in peace time but for the rapid expansion of the cadre in the event of a military threat to India. Such measures should aim at creating a reserve of young men with service training who can be rapidly absorbed as officers when expansion takes place.

(5) The Committee would emphasize that the maintenance of law and order is essentially the responsibility of the Unit governments and that they should if necessary by increasing the strength of their police forces equip themselves adequately for the discharge of this responsibility. The Committee would, however, make it clear that the services of troops on the Union Army establishment should be available for being requisitioned only when the civil power finds itself unable to cope with any particular situation.

The Committee further recommends that a balance should be maintained between the respective arms and that special attention should be paid to Navy, Air Force, mechanized units and such other branches as may be from time to time developed.

The Committee recommends that steps should be taken, even before the coming into being of the new constitution, to adopt and give effect to the measures as far as practicable.

15. REPRESENTATION IN PUBLIC SERVICES

3. The orders now in force at the Centre regarding the representation of communities in the Public Services may continue in operation till the Union Government under the new costitution comes into being.

The Committee, however, recommends that the 8-1/3 per cent. of the seats now allotted to the Sikhs, the Indian Christians, and the Anglo-Indians and Parsis may be split up between the Sikhs, the Indian Christians and the Anglo-Indians and Parsis in the proportion of 3½ per cent. for the Sikhs, 3 per cent. for the Indian Christians, and 1-5/6 per cent. for Anglo-Indians and Parsis. The special provisions relating to Anglo-Indians in certain services under section 242 of the Government of India Act of 1935 are not to be affected by this recommendation.

16. PUBLIC SERVICES COMMISSION

The Chairman and members of the Union Public Service Commission shall be appointed by the Head of the State in consultation with the Prime Minister. The Chairman and members of the Public Service Commission of a Unit shall be appointed by the Head of the Unit in consultation with the Prime Minister of the Unit.

17. FUNDAMENTAL RIGHTS

A comprehensive declaration of fundamental rights should be incorporated in the future constitution of India assuring (a) the liberties of the individual; (b) the freedom of Press and association; (c) equality of rights of citizenship of all nationals irrespective of birth, religion, colour, caste or creed; (d) full religious toleration, including non-interference in religious beliefs, practices and institutions; (e) protection to language and culture of all communities. It should further contain specific declarations on the lines indicated in the reports of the Scheduled Castes and Minority Sub-Committees, for the complete abolition of disabilities imposed by tradition and custom on the Scheduled Castes and the safeguarding of special religious customs like wearing of Kirpans by the Sikhs. The precise formulation of these rights should be undertaken by a special committee of experts at the time of the framing of the new constitution.

18. MINORITIES COMMISSIONS

(a) The Constitution Act shall provide for the establishment at the Centre and in each of the provinces of an Independent Minority Commission which shall be composed of a representative for each of the communities (not necessarily a member of that community) represented in the Legislature.

(b) Subject to the possession of such qualifications or experience as may be prescribed, the member representing each communi y who need not necessarily belong to the same community, shall be elected by members of the Legislature belonging to that community.

(c) No member of the Legislature shall be eligible for membership of the Commission.

(d) The term of office of members of the Commission shall be the same as, and synchronize with, the term of office of members of the Legislature concerned.

(e) The functions of the Commission shall be—

(i) to keep a constant watch over the interests of minority communities in the area;

(ii) without attempting to deal with stray administrative acts or individual grievances, to call for such information as the Commission may consider necessary for discharging their functions.

(iii) to review periodically—for example once every six months —the policy pursued in Legislation and administration by the Legislature and the Executive in regard to the implementing of non-justiciable fundamental rights assured by the Constitution to minority communities and to submit a report to the Prime Minister.

(f) The recommendations of the Commission shall be considered by the Cabinet and the Prime Minister shall, as soon as possible, place the report of the Commission before the Legislature with a full statement of the action taken or proposed to be taken in pursuance of the recommendations of the Commission. In case any of the recommendations are not accepted wholly or in part, the statement should also contain full explanations of the decisions taken by the Government. Facilities shall be provided to the Legislature for a discussion of the report and the decisions of the government thereon.

19. MINORITIES IN THE PUNJAB

The Committee recommends that the case of the Sikhs, the Hindus and the Indian Christians relating to their representation in the Punjab Legislature should be examined with the utmost care by the Constitution Making Body.

20. AMENDMENT TO THE CONSTITUTION

The intention to make a motion in the Union Legislature for an amendment of the Constitution shall be notified to the public and such motion shall not be taken up for consideration by the Legislature until the expiry of at least six months from the date of such notification. It shall not be deemed to have been approved by the Union Legislature unless it has secured the support in each of the two Chambers of a majority of not less than two-thirds of its sanctioned strength. Further, such amendment shall not have effect unless it is also approved by the Legislatures of not less than two-thirds of the Units:

Provided that no amendments shall be made at all for a period of five years from the coming into force of the new constitution in respect of vital provisions of the constitution which should be listed in a schedule to the Constitution Act.

Amendments of a purely formal character may be decided through the ordinary process of Union Legislation.

PART IV

H.M.G.'S FINAL RESPONSIBILITY

21. APPEAL TO COUNTRY

The Committee recommends that the principles here enunciated constitute a fair and effective basis for political settlement in India. It strongly recommends to all communities and parties to accept them, and in particular to the majority parties in provinces now administered under Section 93 of the Government of India Act of 1935 to assume constitu-

tional responsibility. In the event of these proposals being unacceptable to the various communities and parties and their failure to reach an agreement on any other basis, His Majesty's Government should set up an interim Government in India and proceed to establish machinery for drafting the new constitution generally on the basis of the principles underlying these proposals, enact it in Parliament and put it into operation at the earliest possible date.

[Note:—Mr. N. M. Joshi did not agree with the resolutions 4 and 6 as they stand at present.]

APPENDIX No. III

MR. N. R. SARKAR'S NOTE ON THE ECONOMIC IMPLICATIONS OF PAKISTAN

The main object of the enquiry into the economic and financial implications of Pakistan should in my opinion be concerned primarily with the prospect of economic development in India, i.e., how far the problem of improving the standard of living of masses will be helped or thwarted by the division of India into Hindustan and Pakistan. The point of view urged in my colleagues' memorandum, viz., that separation would appear to be workable on economic grounds, judged solely by the test of ability (a) to maintain existing standards of living, and (b) to meet budgetary requirements on a pre-war basis but excluding provision for defence does not appear to constitute an approach from a proper angle. For one thing, there is no reason why we would exclude defence expenditure, which is a vital factor. If defence expenditure were included, Pakistan would be an unsound proposition from the point of view of the budget. For another, the first test, viz., the maintenance of existing standards of living is hardly sufficient. To say that under Pakistan the present low standards of living would be maintained should constitute not an economic justification in favour of Pakistan but just the reverse. If, in addition, the considerations of economic development with a view to improve the standard of living of the people are taken into account, the economic arguments against Pakistan would appear to be overwhelming. I believe that these should constitute the lines along which the economics of Pakistan should be examined.

Judged from this point of view I believe that the division of India into two separate states will be highly prejudicial, particularly to Pakistan areas, and specially so if they are constituted districtwise. Industrial power in the modern world is based on the trinity of coal, iron and oil. Together coal and iron are the foundation for industrialism. As it has been very rightly said, they are to the development of the machine what oxygen and hydrogen are to the growth of the human body; they must be present in combination. While India is not abundantly supplied with oil, she possesses substantial reserves of most important industrial minerals—coal, iron, several of the ferro-alloys which make good steel, and the subsidiary mineral—in quantities which can make her a powerful and reasonably self-sufficient industrial nation. But all these minerals

are so distributed that if India were divided on the basis of religious population the Hindu State would be rich and the Moslem State would be conspicuously poor. Thus Hindustan has great reserves of coal (90 p.c.) and iron (92 p.c.). It has excellent reserves of the more important ferro-alloy metals (though these must be supplemented by the import of others) and of the non-metallic minerals and gold; it has considerable reserves of bauxite and some copper. Pakistan has a small amount of coal and iron, few ferro-alloys, and little bauxite. It has been estimated that the mineral wealth of Pakistan will be only about 5 per cent of that of British India as a whole. Oil is perhaps a disputed factor, although there is hardly any reason for such dispute. There are two distinct oil-bearing areas in India—the one on the east, the most important of which is Assam and the other on the west comprising the Punjab, Baluchistan, North-West Frontier Province and Sind. The substantial portion of the eastern oil-bearing belt, which is by far the more important, falls entirely outside the Moslem area, whether Pakistan is formed provincewise or districtwise. The western oil-bearing belt, on the other hand, falls entirely within Pakistan. But the only important producing field in this area is Khaur in the Punjab which supplies annually about 6 million gallons without Burma. Thus it is correct to say that in oil also Hindustan would claim by far the larger part of the total resources, although Pakistan would possess some quantities.

It is thus no exaggeration to say that if India were divided on basis of religion, the Hindu area would have almost a monopoly of the mineral wealth. Consequently Pakistan would be placed at great disadvantage in respect of industrial development. It is true that Pakistan would have substantial water power but it is doubtful if a country is able to grow into a strong, self-reliant economy by virtue of water power alone, while poverty in respect of other essential economic resources is so pronounced. As it has been rightly said by Mr. Charles H. Bhore in an article on Pakistan in 'Foreign Affairs': "In a closed trade system the Pakistan State of Bengal would, industrially speaking, die"—Bengal which would be the only industrial province of Pakistan if it is constituted provincewise. The countries on the western zone would "remain as they are now, pastoral and agricultural, economically tributary to Hindustan. A division of India strictly on religious lines would seem to destine all of Pakistan for such a status." A natural corollary to this would be that in her trade with Hindustan, agricultural Pakistan will generally receive unfavourable terms of trade. As Hindustan would be able, as in peace time, to import foodstuffs from Burma (rice) and Australia and Canada (wheat) there is no reason to believe that agricultural Pakistan would be able to obtain better terms of trade from Hindustan. If this should happen, the question of maintaining even the existing standards of living in Pakistan would be a serious one.

STANDARD OF LIVING

One of the most important measures for increasing national income and standard of living is industrialisation. But the pressure of industrialisation is always pressure for unity, in India as elsewhere. The Hindu and Moslem areas of India are mutually interdependent. Hindu-

stan would need some of the resources of Pakistan. Pakistan, for industrial life, would need even greater quantities of the resources of Hindustan. It is patent to say that for the full and proper development of all sources of production and consumption is necessary. There are provinces in India well provided with food or agricultural resources but suffering from acute shortages in respect of basic minerals. Even with regard to agricultural resources concentration into certain specific areas is a very prominent feature, so that the economic conditions of different provinces are almost inextricably bound up and interdependent. As a typical instance it may be seen that while Bengal, the principal rice eating province, exports a large quantity of rice, she has invariably to depend on the other provinces for oils, sugar, spices, salt and large number of other essentials. It is only common sense that it is by adding two and two that we can make four. Splitting up or segregation would lead to smaller results. It is arguable that a state need not possess all the resources, or that its total independence of foreign supply is not necessary for its progress. But when considering any proposal for vivisection it is certainly necessary to give proper weight to the advantages of a union from the productional, distributional and financial points as against the disadvantages in all such matters arising out of disintegration. Quite apart from these considerations, once committed to a programme of industrialisation India would rapidly find herself confronted with the problem of controlling the programme in the interests of all her people rather of a few. Divided into economic fragments India would find this an unavoidable issue doubly painful of solution. In a United India the problem would seem to present the spur urging the country to the higher degree of social consciousness which her friends within and outside would wish.

SIZE OF MARKET

Further, the degree or scale of development is limited by the size of the market. A small country has a small market within, with the result that some forms of modern industry cannot be developed in that country, since the necessary specialisation will not be profitable on a small scale. Without unity, again, India would be unable to command confidence of other nations and would be in great difficulty in obtaining foreign loans, if necessary, for economic development. Possible investors would ask for gambler's percentage.

The experience of the countries of South East Europe has also valuable lessons for us. It is being increasingly realised that the economic development of these small nations can best be achieved when they unite in some kind of federation, so that for planning and development the entire South East Europe may be taken as one unit. Isolated and individual attempts in the different countries of this region have failed to lead to maximum results and they should have now come to realise that joint and united actions are necessary for the solution of their economic problems.

Economically, therefore, divided India would be condemned to a standard of living which may even be lower than what it is today. Even if it were possible for Pakistan to maintain the existing standard of liv-

ing that would not be a great achievement, since the existing standard of living is miserably low. In an interview with Herbert and Mathews, appearing in the "New York Times" of Sept. 21, 1942 (quoted in "Foreign Affairs"), Mr. Jinnah remarked that "Afghanistan is a poor country, but it gets along; as does Iraq and that has only a small fraction of the 70 million inhabitants we would have. If we are willing to live sensibly and poorly so long as we have freedom, why should the Hindus object?....The economy will take care of itself in time." If one develops such a philosophic attitude towards poor living, then of course, it is difficult to say anything. Even so, Mr. Jinnah has made a big assumption—"so long as we have freedom". The precariousness of small nation states has been very well brought out by the present conflict. Freedom, if it is to be maintained has to be defended systematically from aggression. This would apply with greater force to Pakistan, most of the component members of which would be on the border regions. The present war has demonstrated the defencelessness of small states and may be expected to inaugurate an era of big states or federation. The former has now become an anachronism because modern war is an affair of colossal finance and armies. A completely independent state in the North-west or in Bengal would be incapable of defence against powerful invasion and render the rest of India equally defenceless. A single government of India is thus rooted in the sheer necessity of ultimate existence.

PROBLEMS OF DEFENCE

It is well-known defence expenditure in India contributed the major part of the expenditure side even in normal times. That expenditure is not likely to go down after separation. Apart from Frontier defences, a rupture between the two neighbouring regions may well occur and both the states may have to build static defence lines like Maginot or Siegfreid. Mere defence requirements will thus outstrip the resources of Pakistan and the matter of financing the other heads of expenditure will be out of the question. Under the existing state of affairs, it may be noted, much larger sums are spent for defence of land frontiers, most of which fall well within the Pakistan area. A pro rata division of the defence expenditure, according to population, as made in my colleagues' memorandum, does not appear to be sound.

I would now like to refer to some factual details in my colleagues' memorandum. Regarding the demarcation of boundaries of Pakistan, the inclusion of Assam within the Eastern Zone of Pakistan does not appear to be justified by facts. According to the latest census returns Moslems in Assam constitute something like 33 per cent of the total population while Hindus constitute more than 40 per cent. Only if Pakistan is formed districtwise which is more logical one district of Assam, viz., Sylhet would come within the Eastern Zone of Pakistan.

The estimate of the budgetary position of Pakistan is not strictly accurate. If Pakistan were to be constituted districtwise expenditure will have to be incurred on many items which do not appear to have been considered in the memorandum. For example, the Calcutta High Court will no longer be available to the Eastern Zone and a separate High Court will have to be set up, the capital and recurring expenditure

for which will be substantial. Secondly, with the separation of Calcutta, the Eastern Zone will have to greatly enlarge the scope and function of the University of Dacca for which also considerable expenditure will be necessary. Further, provision will have to made in the Eastern Zone for such services as a Secretariat, a Medical College, a Veterinary College etc. The effect of all these new items will be to inflate the expenditure budget of the Eastern Zone. Unless some evaluation of this extra cost both capital and recurring, is effected it cannot be determined whether the Eastern Zone constituted districtwise can meet budgetary requirements in the same way as the zone constituted on a provincewise basis.

It is somewhat unreal to base calculations on the pre-war basis. In Bengal, for instance, there have been revolutionary changes during the few war years. Till 1939-40 Bengal balanced her budget. Her position deteriorated with the outbreak of the war. She at once set out to improve her position by increased efforts in taxation and was almost successful in balancing her budget again when in 1943-44 she was faced with the full impact of the Japanese war and the Famine. Her position was thereby impaired beyond correction by unaided effort. The accumulated deficit on revenue account in the three years 1943-44 to 1945-46 amount to 28 crores and more than half a crore would be required to meet the interest on the loan which would be required to meet the deficit. Further borrowing may be necessary to cover the loss on food grains transactions although the amount of such borrowing cannot be estimated at this stage. All things considered, the budget of the Eastern Zone is likely to carry ineffective charges amounting to a crore or so.

The central debt to be allotted to the newly formed areas has been assumed to be Rs. 500 crores after the war. According to Sir Jeremy Raisman's last budget speech the progressive total of public loans since the beginning of the war, has upto the end of January, 1945 reached the total of 833 crores. On this basis the "end of the war" figure may well be 100 crores or double of what has been estimated in the memorandum. This reduces the surplus in the Central Budget of Pakistan (para 15 of the memorandum) by 7 crores of rupees.

But all our discussion of the economic strength of Pakistan or its budgetary position becomes unreal if we grant Mr. Jinnah's proposition to live poorly. If the Muslims accept poverty as a badge of honour then we may conceivably have nothing to say. Even then, it may not be right for us to be indifferent to the lot of those Hindus in Pakistan who may not be so willing to face poverty cheerfully. Only when Pakistan is constituted provincewise it would come to have some show of strength, although not to the extent desired or necessary, due to the inclusion of the industrial areas of Bengal. But this is not a sound or logical basis of Pakistan. If, in order to make Pakistan economically feasible, we have to give away the rich districts of Bengal then one might as well propose to add even more territories to Pakistan, in order to make it even more rich and self-sufficient. Pakistan on the basis of contiguous districts is the only logical basis on the principle of religious division. But then it would be extremely poor, barely able to maintain the existing deplorable standards of living, while the cost of defence would present a formidable problem to its exchequer.

Considering the economic and financial implications of Pakistan the conclusion is irresistible that Pakistan is not a practical proposition, either economically or financially. My colleagues have urged that Pakistan may work by establishing a system of close co-operation in economic, financial, defence and other important matters. I do not consider this to be practicable. If cooperation could have been possible after separation I see no reason why it should not be available in abundant measure within a united India. If feelings are strained to such a point that separation becomes unavoidable, the act of separation itself will create further ill feelings, making co-operation difficult and impossible.

APPENDIX No. IV

Lahore Resolution of the Muslim League

LAHORE LEAGUE SESSION, 23RD MARCH, 1940.

Resolved that it is the considered view of this Session of the All-India Muslim League that no constitutional plan would be workable in this country or acceptable to Muslims unless it is designed on the following basic principle, viz., that geographically contiguous units are demarcated into regions which should be constituted, with such territorial readjustments as may be necessary, that the areas in which the Muslims are numerically in a majority as in the North-Western and Eastern Zones of India should be grouped to constitute "Independent States" in which the constituent unit shall be autonomous and sovereign.

That adequate, effective and mandatory safeguards should be specifically provided in the constitution for minorities in these units and in these regions for the protection of their religious, cultural, economic, political, administrative and other rights and interests in consultation with them; and in other parts of India where the Mussalmans are in a minority, adequate, effective and mandatory safeguards shall be specifically provided in the constitution for them and other minorities for the protection of their religious, cultural, economic, political, administrative and other rights and interests in consultation with them.

This Session further authorises the Working Committee to frame a scheme of constitution in accordance with these basic principles, providing for the assumption finally by the respective regions of all powers such as defence, external affairs, communications, customs and such other matters as may be necessary.

APPENDIX No. V

GANDHI-JINNAH LETTERS

DATED 24th AND 25th SEPTEMBER 1944

Mr. Gandhi's letter dated September 24:

Dear Qaid-i-Azam,

I have your two letters of 23rd September in reply to my letters of 22nd and 23rd.

With your assistance, I am exploring the possibilities of reaching an agreement so that the claim embodied in the Muslim League resolution

of Lahore may be reasonably satisfied. You must therefore have no apprehensions that the August resolution will stand in the way of our reaching an agreement. The resolution dealt with the question of India as against Britain and it cannot stand in the way of our settlement.

I proceed on the assumption that India is not to be regarded as two or more nations but as one family consisting of many members of whom the Muslims living in the North West zones, i.e., Baluchistan, Sindh, North West Frontier Province and that part of Punjab where they are in absolute majority over all the other elements and in parts of Bengal and Assam where they are in absolute majority, desire to live in separation from the rest of India.

Differing from you on the general basis I can yet recommend to the Congress and the country the acceptance of the claim for separation contained in the Muslim League Resolution of Lahore of 1940 on my basis and on the following terms:—

> The areas should be demarcated by a Commission approved by the Congress and the League. The wishes of the inhabitants of the areas demarcated should be ascertained through the votes of the adult population of the areas or through some equivalent method.
>
> If the vote is in favour of separation it shall be agreed that these areas shall form a separate state as soon as possible after India is free from foreign domination and can therefore be constituted into two sovereign Independent States. There shall be a treaty of separation which should also provide for the efficient and satisfactory administration of foreign affairs, defence, internal communications, customs, commerce and the like, which must necessarily continue to be the matters of common interest between the contracting parties.
>
> The treaty shall also contain terms for safeguarding the rights of minorities in the two states.
>
> Immediately on the acceptance of this agreement by the Congress and the League the two shall decide upon a common course of action for the attainment of independence of India.
>
> The League will however be free to remain out of any direct action to which the Congress may resort and in which the League may not be willing to participate.

If you do not agree to these terms could you let me know in precise terms what you would have me to accept in terms of the Lahore Resolution and bind myself to recommend to the Congress? If you could kindly do this, I shall be able to see apart from the difference in approach what definite terms I can agree to. In your letter of 23rd September you refer to "the basis and fundamental principles embodied in the Lahore Resolution" and ask me to accept them. Surely this is unnecessary when as I feel I have accepted the concrete consequence that should follow from such acceptance.

Yours sincerely,
M. K. GANDHI.

Mr. Jinnah's Letter Dated September 25.

Dear Mr. Gandhi,

I am in receipt of your letter of September 24th, and I thank you for it. You have already rejected the basis and fundamental principles of the Lahore Resolution.

(1) You do not accept that the Mussalmans of India are a nation.

(2) You do not accept that the Mussalmans have an inherent right of self-determination.

(3) You do not accept that they alone are entitled to exercise this right of theirs for self-determination.

(4) You do not accept that Pakistan is composed of two zones, North-West and North-East, comprising six provinces, namely Sindh, Baluchistan, North-West Frontier Province, the Punjab, Bengal and Assam, subject to territorial adjustments that may be agreed upon, as indicated in the Lahore Resolution. The matter of demarcating and defining the territories can be taken up after the fundamentals above mentioned are accepted, and for that purpose machinery may be set up by agreement.

You do not accept the provisions embodied in the Lahore Resolution for safeguarding the minorities, and yet in your letter under reply you say: "With your assistance. I am exploring the possibilities of reaching an agreement so that the claim embodied in the Muslim League Resolution of Lahore may be reasonably satisfied", and proceed to say "you must therefore have no apprehensions that the August Resolution will stand in the way of our reaching an agreement."

I have already clearly explained to you that the August resolution, so long as it stands, is a bar, for it is fundamentally opposed to the Lahore Resolution. You then proceed to say "that resolution dealt with the question of India as against Britain and it cannot stand in the way of our settlement." I am not at present concerned with Britain, but the August Resolution, as I have already stated, is against the ideals and demands of the Muslim League. Further, there is the resolution of Jagat Narayan Lal, passed by the All-India Congress Committee in May 1942 at Allahabad, which, in express terms, lays down as follows:

> "The A.I.C.C. is of opinion that any proposal to disintegrate India by giving liberty to any component state or territorial unit to secede from the Indian Union or Federation will be highly detrimental to the best interests of the people of the different states and provinces and the country as a whole and the Congress, therefore, cannot agree to any such proposal."

These two resolutions, so long as they stand, are a complete bar to any settlement on the basis of the division of India as Pakistan and Hindustan. It is open to the Congress to revise and modify them, but you are only speaking in your individual capacity, and even in that capacity you are holding fast to the August Resolution and you have given no indication of your attitude regarding Jagat Narayan Lal's resolution. I have repeatedly made it clear after we had discussed the Gandhi-Rajaji formula, as you maintained that, to use your own language. "Rajaji not

only has not put the Lahore Resolution out of shape and mutilated it but has given it substance and form," and proceeded to say "Indeed in view of your dislike of the Rajaji formula, I have, at any rate for the moment, put it out of my mind and I am now concentrating on the Lahore Resolution in the hope of finding a ground for mutual agreement." When I asked for further clarification which you furnished me by your letter of September 15th, you started by saying "I have shunted the Rajaji formula and with your assistance I am applying my mind very seriously to the famous Lahore Resolution of the Muslim League," and thence forward the Gandhi-Rajaji formula was not discussed any further, and the question of your representative character and authority, which I had pointed out from the very commencement, therefore did not arise, as you had given me the task of converting you to the fundamentals of the Lahore Resolution, and ever since we discussed the Lahore Resolution only at great length and examined the pros and cons, and finally you have rejected it. As a result of our correspondence and discussions I find that the question of the division of India as Pakistan and Hindustan is only on your lips and it does not come from your heart, and suddenly at the eleventh hour you put forward a new suggestion, consisting only of two sentences by your letter of September 22nd, saying, "I have therefore suggested a way out. Let it be a partition as between two brothers if a division there must be." I naturally asked you what this new suggestion of yours meant and wanted you to give me rough outlines of this new idea of yours as to how and when the division is to take place and in what way it is different from the division envisaged in the Lahore Resolution, and now you have been good enough to give me your amplification, in your letter of September 24th under reply, in which you say: "Differing from you on the general basis I can yet recommend to the Congress and the country the acceptance of the claim for separation contained in the Muslim League Resolution of Lahore 1940 on **my basis** and on the following terms." The terms clearly indicate that your basis is in vital conflict with and is opposed to the fundamental basis and principles of the Lahore Resolution. Now let me take your main terms:—

(a) "I proceed on the assumption that India is not to be regarded as two or more nations but as one family consisting of many members of whom the Muslims living in the North West zones i.e., Baluchistan, Sindh, North-West Frontier Province and that part of the Punjab where they are in absolute majority over all the other elements and in parts of Bengal and Assam where they are in absolute majority, desire to live in separation from the rest of India." If this term were accepted and given effect to, the present boundaries of these provinces would be maimed and mutilated beyond redemption and leave us only with the husk, and it is opposed to the Lahore Resolution.

(b) That even in these mutilated areas so defined, the right of self-determination will not be exercised by the Muslims but by the inhabitants of those areas so demarcated. This again is opposed to the fundamentals of the Lahore Resolution.

(c) That if the vote is in favour of separation they shall be allowed to form a separate state as soon as possible after India is free from foreign dominations, whereas we propose that we should

come to a complete settlement of our own immediately, and by our united front and efforts do everything in our power to secure the freedom and independence of the peoples of India on the basis of Pakistan and Hindustan.

(d) Next you say "There shall be a treaty of separation which should also provide for the efficient and satisfactory administration of foreign affairs, defence, internal communications, customs, commerce and the like which must necessarily continue to be matters of common interests between the contracting parties." If these vital matters are to be administered by some central authority, you do not indicate what sort of authority or machinery will be set up to administer these matters and how and to whom again that authority will be responsible. According to the Lahore Resolution, as I have already explained to you, all these matters, which are the lifeblood of any state, cannot be delegated to any central authority or government. The matter of security of the two states and the natural and mutual obligations that may arise out of physical contiguity will be for the constitution-making body of Pakistan and that of Hindustan, or other party concerned, to deal with on the footing of their being two independent states. As regards the safeguarding of the rights of minorities, I have already explained that this question of safeguarding the minorities is fully stated in the Lahore Resolution.

You will therefore see that the entire basis of your new proposal is fundamentally opposed to the Lahore Resolution, and as I have already pointed out to you both in the correspondence and in our discussions, it is very difficult for me to entertain counter-proposals and negotiate and reach any agreement or settlement with you as an individual unless they come from you in your representative capacity. That was the same difficulty with regard to the Gandhi-Rajaji formula, and I made it clear to you at the very outset, but the formula was discussed as you asserted that it had met the Lahore Resolution in substance, but while you were furnishing me with the clarification of this formula, you shunted it and we confined ourselves to the Lahore Resolution, and hence the question of your representative capacity did not arise regarding this formula. But now you have in your letter of September 24th made a new proposal of your own on your own basis, and the same difficulties present themselves to me as before, and it is difficult to deal with it any further unless it comes from you in your representative capacity.

I cannot agree with you when you finally wind up by saying "In your letter of 23rd September you refer to the basis and fundamental principles embodied in the Lahore Resolution and ask me to accept them. Surely this is unnecessary when as I feel I have accepted the concrete consequence that should follow from such acceptance." This is obviously far from correct. Why not then accept the fundamentals of the Lahore Resolution and proceed to settle the details?

Yours sincerely,

M. A. JINNAH.

APPENDIX No. VI

MEMORANDUM OF HINDU BOARD, PUNJAB

PART I

FUNDAMENTAL RIGHTS

(A)

The following fundamental rights of citizenship be incorporated in the future constitution of India:

1. All citizens shall be equal before the law, irrespective of religion, caste, creed, colour or sex and there shall be no law of a discriminative nature.
2. Every citizen shall have freedom of speech, freedom of association, and freedom of expression through the Press.
3. No person shall be tried or punished nor shall his dwelling or property be entered, sequestered and confiscated save by an order of a competent court and according to law.
4. Every citizen shall enjoy freedom of conscience and the right freely in to profess, and practice his religion subject to public order and morality.
5. No citizen will be subjected to any disability or prejudiced by reason of his religion, caste, creed, colour or sex in regard to public employment, office of power or honour and in the exercise of any trade or calling.
6. All citizens shall have the right to free elementary education and of admission without any distinction of caste, colour or creed in any educational institution maintained or aided by the State.
7. The culture, language and script of the minorities and of different linguistic areas shall be duly protected, i.e.
   (a) All minorities shall have equal right to establish, manage and control at their own expense charitable and religious institutions and start educational schools and colleges with freedom to use their own language to practise their own religion therein.
   (b) If in any village or town demand is made on behalf of a prescribed number of children of a minority community for a separate primary school for them, the local authorities concerned shall set up a school for instruction in the language and script of the community.
   (c) No child attending any school receiving State-aid shall be compelled to attend religious instruction imparted in that school or participate in religious observances of religion other than his own that may be imparted in that school.
8. All schools, colleges, technical and other institutions established by the minorities, if complying with the prescribed rules and regulations, shall be entitled to the same assistance from the State and local funds and be subject to the same control, if any, as similar institutions for the general public or the majority community.

9. Every citizen shall have the right to get questions relating to his family law or personal status regulated in accordance with his personal law.
10. No bill, resolution, motion or amendment regarding any religious matter affecting a minority community shall be moved, discussed or passed by any legislature, central or provincial, if a 3/4th majority of the members of that community oppose introduction, discussion or passing of such bill, resolution, motion or amendments.
11. Every citizen shall be free to move throughout India and to stay and settle in any part thereof, or to acquire property and to follow any trade or calling without any disability being imposed on him.
12. There shall be no State religion and the State shall observe neutrality with regard to all religions.

(B) Majority of these fundamental rights are justiciable by a court of law. In the case of those which are not, Independent Minorities Commissions shall be appointed in the provinces and at the Centre to deal with them.

2. (A) An adequate share for the minorities in the legislature should be secured by joint electorates and reservation of seats for recognised minorities. If any weightage is to be given it should be on a uniform basis in the centre and in the provinces. In no province should any minority be given less representation than is due to it on population basis. Reservation of seats should cease after 20 years, or earlier, if the communities concerned agree.

(B) The executive governments in the provinces and at the centre during the period referred to in (A) should be of a composite nature reflecting the proportion of each community in the various legislatures.

(C) We are opposed to communal considerations being introduced in recruitment to services as they encourage communalism in administration and adversely affect efficiency. However, situated as we are, and only by way of compromise for the transitional period aforesaid, it is suggested that 50 per cent posts in all public services be recruited purely on merit as a result of public examination and the remaining 50 per cent filled on population basis by selecting the best candidates from each community. Communal inequalities, if any, in the first half should not be made up from the other half. This latter percentage should be reduced after every 5 years by progressive stages and entirely done away with after 20 years.

3. To improve, social, educational and economic conditions of the Scheduled Castes, the aboriginal tribes and other backward classes, following suggestions are made:—

1. Untouchability should be abolished.
2. Members of these classes should have the right of using public wells and tanks.
3. **Begar** should be made a crime.

4. Special educational facilities, such as supply of free books and grant of stipends should be provided for their children and for this provision be made in central and provincial budgets.
5. The members of these classes should be exempted from the operation of the Punjab Land Alienation Act and similar enactments in other provinces so as to enable them to acquire land upto 10 acres from statutory agriculturists as well as non-agriculturists.
6. Cottage industries should be started in areas predominantly inhabited by these classes.
7. The rules of customary law which impose disabilities on village menials as to ownership of Abadi land where they have been settled for a long time should be suitably modified.

PART II

1. (A) We are opposed to the establishment of an independent Pakistan State or States as envisaged in the resolution of All-Indian Muslim League passed in 1940 and amplified in the letter of Mr. Jinnah dated 25th September 1944 to Mahatma Gandhi. In our opinion the establishment of such independent state or states will not serve the interests of either Hindus, Muslims, Sikhs or Christians. Instead of solving the communal problem, it will accentuate it. We are appending a detailed note on the subject in the Appendix.

(B) This question does not arise.

(C) Does not arise.

2. Does not arise.

3. The Muslim League claim for establishment of Pakistan is the natural sequence of the spirit of separatism introduced in the body politic of India by the adoption of separate communal electorates. India has unfortunately been put on the wrong track and the only alternative scheme that we can suggest is that it should be set back on the right road by the introduction of joint electorates with reservation of seats.

PART III

We are strongly in favour of the inclusion of Indian States in an all-India Union, as we feel that such a union will be in the interests of both Indian-India and British India.

PART IV

1. (A) We are in general agreement with the division of functions between the centre and the units as given in the list appended to Government of India Act, 1935.

(B) Although we believe that the list of subjects is fairly comprehensive and there will not be many occasions for the use of residuary powers yet with a view to avoid friction among the different units we are in favour of vesting residuary powers in the centre.

2. (A) We are opposed to the British Indian Provinces being given the liberty of not acceding to the all-India Union, as they already form

part of British India as such. Indian States should also be given no such option.

(B) Does not arise.

(C) Does not arise.

3. No unit shall have the right of secession.

4. If fundamental rights as detailed above are incorporated in the constitution there will be no necessity for re-alignment of the Provinces on any large scale.

PART V

1. (A) The provincial and the central executives should be of a parliamentary type being removeable on a vote of no-confidence by the Legislature. The representatives of various communities in the Cabinet should be such as enjoy the confidence of the members of their respective communities in the legislature. When joint electorates have been introduced and parties formed on political and economic lines, the need of laying down any hard and fast rules for the communal representation in the executive will not exist. It is possible under that system that there might be a Muslim Premier in a non-Muslim province and vice-versa as is the case in other countries.

(B) We believe that with the introduction of joint electorates there will be no need for taking any steps for securing representation of different communities on the provincial and central executives. Till then the representation of various communities on the executive should reflect their representation in the legislature.

2. We consider joint electorates to be essential for the development of a spirit of a united nationhood. For the transitional period we propose reservation of seats for all minorities in proportion to their population both at the centre and in the provinces, with, of course, joint electorates. If weightage to minorities is to be given it should be on a uniform basis in the centre and in the provinces. With joint electorates adult franchise may be introduced but with separate electorates franchise should not be widened. Method of election both to the provincial and central legislatures should be direct.

3. We do not want the future constitution of India to be absolutely rigid nor do we want it to be over-flexible. For amendment in the future constitution a 3/4 majority of the total strength of each house of Central legislature with at least 1/3 votes of all the minority communities should be essential, provided that the same is confirmed in a subsequent meeting of each House.

PART VI

For framing the new constitution we suggest the formation of a Constituent Assembly composed of representatives of provincial legislatures elected one for every 10 members on the basis of proportional representation with single transferable vote.

PART VII

Until such time as the new constitution comes into force we suggest the formation of a National Government at the Centre. Such a Cabinet should have on it persons representing various communities and interests

in the same ratio as reflected in the legislature. Excepting Defence and Foreign affairs, all other subjects should be transferred to the members of the Executive Council. There should be a well understood convention that His Excellency the Governor General shall be guided by the advice of his Ministers in all matters concerning departments under their charge.

PART VIII

In the event of failure to agree on the part on the members of Constituent Assembly to evolve a constitution for India, we suggest that the provisions of Government of India Act with regard to Federation should be given effect to. In case the requisite number of States are not prepared to accede, federation of the British Indian provinces should be formed.

Sd. 1. Diwan Bahadur Raja Narendra Nath, President, Provincial Hindu Maha Sabha, Punjab.
2. Hon'ble R. B. Ram Saran Das, C.I.E., Member, Council of State.
3. Dr. Sir G. C. Narang, M.LA
4. R. B. M. L. Puri, Bar-at-Law, M.L.A.
5. R. B. Gopal Das, M.L.A.
6. R. B. L. Badri Das, Advocate, Lahore.
7. Krishan, Prop. "Daily Pratap".
8. Khushal Chand, Prop. "Daily Milap."
9. R. B. Dr. Mathra Dass, Lahore.
10. Captain Kasheb Chander, General Secretary, All-India Hindu Maha Sabha.
11. Malik Arjan Dass, M.A., LL.B., General Secretary, Provincial Hindu Maha Sabha.
13. Baba Gurmukh Singh, Amritsar.
12. R. B. L. Durga Dass, Advocate, Lahore.
14. M. B. Kholi, Managing Director, New Bank of India Ltd.
15. L. Brij Lal, Secretary, The Punjab Hindu Board, Lahore.

A NOTE ON PAKISTAN

Background of Pakistan.

Sir Mohmmad Iqbal, in his presidential address at the All-India Muslim League session at Lucknow in 1930, made a proposal for the amalagamation of the Punjab, North West Frontier Province, Sind and Baluchistan into a single State. He said "I would like to see the Punjab, N.W.F.P., Sind and Baluchistan amalgamated in a single State." Self-Government within the British Empire, the formation of a consolidated North-West Indian Muslim State appears to me to be the final destiny of the Muslims, at least of the North-Western India." ,

A similar proposal was put forward before the Nehru Committee but was rejected on the ground that, if given effect to, it would create an unwieldy state. The proposal of Dr. Iqbal was not received sympathetically and was regarded as "the innocent fancy of a poet who had strayed into the political arena." Malik Barkat Ali, now a prominent Muslim

Leaguer, in his welcome Address as the Chairman of the Reception Committee of the Punjab Nationalist Muslims Conference held at Lahore in 1931 said:

> "The conception of a divided India, which Sir Mohammad Iqbal put forward recently in the course of his presidential utterance from the platform of the League, at a time when that body has virtually become extinct and ceased to represent free Islam—I am glad to be able to say that Sir Mohammad Iqbal has since recanted it—must not therefore delude anybody into thinking that it is Islam's conception of the India to be. Even if Dr. Sir Mohammad Iqbal had not recanted it as something which could not be put forward by any sane person, I should have emphatically and unhesitatingly repudiated it as something foreign to the genius and the spirit of the rising generation of Islam, and I really deem it a proud duty to affirm today that not only must there be no division of India into communal provinces but that both Islam and Hinduism must run conterminously with the boundaries of India and must not be cribbed, cabined and confined within any shorter bounds."

In 1933, the Muslims, hitherto called a minority community, were for the first time called a "nation" by a Punjabi Muslim, Choudhary Rahmat Ali, who gave the movement a shape and form. He coined the word "Pakistan" to denote the North-western Muslim part of India. According to him the different letters of the word "Pakistan" stand for different territorial areas in the North-West. "P" stands for the Punjab; "A" for the Afghan Province; "K" represents Kashmir; "S" symbolises Sind and the last three letters "TAN" signify Baluchistan. Choudhary Rahmat Ali proposed that these provinces should have an independent federation of thier own. Choudhary Rahmat Ali distributed leaflets advocating his scheme of Pakistan amongst the members of the Parliament and the members of the Round Table Conference, but no Indian, Hindu or Muslim, took any interest in the proposed scheme. Sir Mohammad Zafarullah Khan, on being questioned at the Round Table Conference, described it as "chimerical and impracticable."

Nobody took any serious notice of the scheme put forward by Choudhary Rahmat Ali till Mr. Jinnah and the Muslim League put the seal of approval on it at the Lahore session of the All-India Muslim League in the year 1940. The Muslim League resolution of 1940 runs as follows:

> "It is the considered view of this session of the All-India Muslim League that no constitutional plan would be workable in this country or acceptable to the Muslims unless it is designed on the following basic principle, viz., that geographically contiguous units are demarcated into regions which should be constituted with such territorial readjustments as may be necessary that the areas in which the Muslims are numerically in a majority, as in the North Western and North-Eastern zones of India, should be grouped to constitute independent states in which the constituent units shall be autonomous and sovereign. Adequate effective and mandatory safeguards should be specifically provided in the constitution for them and other minorities for the protection of their religion, cultural, economic, political, administrative and other rights and interests in consultation with

them. The session further authorises the Working Committee to frame a scheme of constitution in accordance with these basic principles, providing for the assumption finally, by the respective regions, of all powers such as, defence, external affairs, communications, customs and such other matters as may be necessary."

The resolution laid down three principles:—

(a) that British India should resolve itself into regions formed of contiguous parts, through such territorial re-adjustments as may be necessary, in order that the areas in which the Muslims are numerically in a majority, as in the North-Western and Eastern zones of India, might be grouped to constitute "Independent States" in which the constituent units shall be autonomous and sovereign;

(b) that these regional states assume finally "all powers such as defence, external affairs, communication, customs and such other matters as may be necessary;"

(c) that "adequate, effective and mandatory safeguards should be specifically provided in the constitution for the minorities."

It was during the Gandhi-Jinnah talks that Mr. Jinnah specified for the first time the provinces which the two zones, one in the North-West and the other in the North-East, would include. According to Mr. Jinnah, Pakistan is composed of two zones comprising six provinces namely Sind, Baluchistan, N.W.F.P. and the Punjab in the North-West; and Bengal and Assam in the North-East, subject to territorial adjustments that may be agreed upon as indicated in the Lahore resolution of the League given above. He, however, did not definitely indicate what territorial adjustments were intended by the above resolution of 1940. Under the circumstances, it is safe to assume that Mr. Jinnah intends including in the North-West Zone of Pakistan the provinces of the Punjab as a whole, N.W.F.P., Sind and Baluchistan.

The Punjab case against Pakistan is based on very cogent reasons, but before we enumerate these reasons, we would like to refer briefly to the untenable and impracticable character of the Pakistan demand itself. In his letter to Mahatma Gandhi, dated 17th September 1944, Mr. Jinnah wrote:—

"We maintain and hold that Muslims and Hindus are two major nations by any definition or test of a nation. We are a nation of 100 million and what is more, we are a nation with our distinctive culture and civilisation, language, literature, art and architecture, names and nomenclature, sense of value and proportion, legal laws and moral codes, custom and calendar, history and tradition, aptitude and ambitions. In short, we have our own distinctive outlook on life and of life and according to all canons of international law, we are a nation."

All that we can say of this claim is that, in his anxiety to produce some effect upon the minds of his co-religionists, Mr. Jinnah has not cared for the accuracy of his statement. It is undoubtedly true that the Hindus and Muslims of India differ in many respects in regard to their religion and religious rites and ceremonies and there could be no difference of

opinion with him on this matter. But to try to prove that these differences are enough to make Hindus and Muslims separate nations in the accepted sense of the word would be a travesty of truth.

International law recognises only states and is intended to regulate their mutual relations. States are its units and states and states alone enjoy a locus standi in the law of Nations. They are the only wearers of international personality. Now the Muslims of India only form part of a subject people like the rest of the population of India and therefore the canons of international law (such as they are) are not applicable in their case. To quote the report on the Aaland Islands "to concede to minorities, either of language or religion, or to any fractions of a population the right of withdrawing from the community to which they belong, because it is their wish or their good pleasure, would be to destroy order and stability within states and to inaugurate anarchy in international life; it would be to uphold a theory incompatible with the very idea of the state as a territorial and political unity." The mere fact that the Mussalmans are numerically 100 million cannot lend additional weight to their fantastic claim; particularly when it is remembered that the non-Muslims in India number over 300 millions.

We do not concede that the possession of distinct culture, civilization and other characteristics enumerated by Mr. Jinnah can strengthen the Muslim claim to be classed as a separate nation, but the position becomes still more absurd and untenable when on close examination, we find that the Muslims have not got any distinctive culture, language, etc., except their religious rites and observances or names and nomenclature.

There has never been any pure unalloyed Muslim Art and Architecture in India. In his book "Indian Architecture" Mr. Havell wrote on page 18 "In Architecture the Taj is unique, but neither Arabs, Persians nor Moghuls can claim it as their own, as it is Indian in body and soul. The armies of Islam brought few masons and other craftsmen with them so the Delhi Sultans and their satraps in Bengal merely impressed the Hindu builders and craftsmen in their service and the Indian Master builder continued to build for his Mohammedan Rulers according to Indo-Aryan traditions, just as he had done for Buddhists, Jains and Hindus. Indian Mosque was the Hindu temple adapted to Mohammedan ritual. The Muslim art in India from its very beginning was and continued to be wholly Indian in spirit and in craftsmanship".

As regards the question of language and literature, every one knows that Mussalmans living in a particular area in India speak the same language as the Hindus of that area. The Bengali Muslim speaks Bengali; the Punjabi Mussalman speaks Punjabi and Sindhi Mussalman speaks Sindhi. Certainly Mr. Jinnah does not mean that Arabic is the common language of Indian Muslims because very few Mohammedans know Arabic in the sense that they can easily read and write that language while fewer still can speak it.

Indian Muslims are not even racially different from Hindus. They come of the same stock. The only difference being that the Muslims are mainly the descendants of those Hindus who abjured their religion for one consideration or another. It can be asserted without fear of contradiction

that the Punjabi Mussalman is nearer, in every essential aspect of life, to his Hindu neighbour than to a Muslim living in Madras, Bengal or any other province. If Mr. Jinnah takes the trouble of visiting even a few Punjab villages, he will find no difference between the food, dress, language of a Hindu and a Mussalman. In fact, the law relating to inheritance and alienation of ancestral agricultural property is a replica of the Hindu Law of Succession with such modification as have become necessary by passage of time.

Another argument which the advocates of Pakistan put forward in favour of their claim is that the Muslims cannot and will not live under an All-India Federation, because it will mean, in actual operation, living under the domination of a Hindu Raj. If they cannot tolerate the Muslims of India, who do not constitute more than 24 per cent of the total population of the country, to submit themselves to an All-India Federation. why should they expect the non-Muslims in the Punjab, Bengal and Assam, who constitute 43, 45 and 56 per cent respectively to come voluntarily or to be coerced into coming under a Pakistan. If they think that these Hindu Minorities should be satisfied if the Pakistan State provides adequate, social, effective and mandatory safeguards for the political and economic rights, why should not the Mussalmans be satisfied by a similar assurance.

The Muslim League has been trying to strengthen its claim to a separate Federation by reference to some sort of tyranny to which they say, the Muslims were subjected in the Hindu majority Provinces during the 18 months or so when the Congress Ministries were functioning there. The allegation is absurd and has been proved false. Without admitting the correctness of these charges, we would ask Mr. Jinnah whether he is prepared to compare the record of this short Congress rule in India in relation to Muslims with the record of long period of Muslim Rule in India in relation to the Hindus.

A division of India into independent States, will weaken its defences.

Coming to the Punjab itself we find that Mr. Jinnah has based his claim to have this province included in his dreamland of Pakistan on the ground inter alia that the Punjab is the "homeland" of the Mussalmans. It is not clear what exactly Mr. Jinnah means by this term. Primarily it is a catch phrase of the Zionist Movement devised for the specific purpose of articulating the ambition of the Jews to carve an independent state for themselves in a territory which once was theirs and over which they could exercise sovereign powers. But this analogy does not hold good in the case of Indian Mussalmans, because Palestine, where the Jews wanted to have a homeland, was possessed by their ancestors, the Hebrews, for many centuries. Moreover, Palestine was for them the 'promised land' sanctified by their Prophets and it is doubtful if Jewish ambition for "homeland" could exist in the absence of the religious fervour associated with Palestine as a holy place. Judging from this historical background of the notion of homeland the Punjabi Mussalmans are as little entitled to claim this land of the five rivers as a homeland as they would be entitled to claim those provinces of China in which they happen to be in majority.

Impartially speaking the Punjab is the homeland of the Punjabis, the people who belong to roughly speaking one racial and linguistic stock. It is

not exclusively the homeland of any particular community or class, such as, the Hindu community, the Sikh community or the Muslim community. But if, out of these three communities, any one can claim a greater and more legitimate right to look upon the Punjab as its homeland, it is undoubtedly the Hindu community.

This was the country where from pre-historic times till the 12th century, their ancestors exercised sovereign powers. They have lived here permanently and are going to live here for ever. The Mohammedan conquerors subdued them politically but despite this they have maintained their exclusive heritage. It was in the Punjab that, according to the Western scholars, the Rig-Veda, the first literary monument of the world, was revealed. It was here that the entire Vedic religion and polity were developed.

Even judging from the population figures of different communities which inhabit the Punjab the Muslim League's claim to include Punjab in Pakistan is untenable, as will be clear from a perusal of the table given below:—

Population percentages according to communities in the whole of Punjab.

Community	1881.	1891.	1901.	1911.	1921.	1931.	1941.
Muslims	47.53	47.39	49.61	51.07	51.05	52.40	53.22
Hindus	43.84	44.08	41.27	35.79	35.06	30.38	29.11
Sikhs	8.22	8.09	8.63	12.11	12.38	14.29	14.92

It is clear that the Mussalmans were till the census of 1911, not even in a majority in the Punjab and even now if the population of Bahawalpur State which is a distinct entity apart from the Punjab and the district of D. G. Khan and Tehsil of Isa Khel of Mianwali District which lie beyond the Indus and thus really belong to the Frontier Province are excluded, the population percentage of Mussalmans in the Punjab is reduced to 51 per cent. Add to this the fact that the Hindus have always been challenging the accuracy of the census figures. As pointed out by K. S. Ahmed Hassan Khan, Superintendent of the Census Operations Punjab in 1931 at page 79 of the report:

> "Another factor came into play on the present occasion and deprived the census operations of the calm atmosphere which is essential to the obtaining of correct returns. The new constitution for India was to be framed at no distant date and the value attached to the communal figures brought out by the Census was greater than ever. Consequently the atmosphere was surcharged with propaganda carried on through various agencies and attempts were made in some places by the enumerators to swell the figures of their community by means of bogus entries or to curtail the strength of rival community by scoring out persons who were actually present on the final census night. There were also some cases in which residents of houses returned bogus entries with the same motive."

It is worthy of note that it was at the time of this census that the Congress minded Hindus and Sikhs had boycotted it in consequence of the general mania of boycotting everything official.

The census of 1941 recorded an increase of 58 lacs in the total population of the Punjab. The variation percentage during the last 10 years the highest since 1901 as shown below:—

Period	Variation percentage
1901—11	1.8
1911—21	5.6
1921—31	13.9
1931—41	20.5

Mr. Yeatts, the Census Commissioner for India has remarked that "political influences worked on the Census operations". At page 10 of the report he observes:—

> "Over far the greater part of the country and in the entire rural areas of the North, were definite corruptions observed".

He adds that we have in the Punjab and Eastern Bengal "two alarming areas". It may be interesting to note that the variation percentages in Bengal were as follows:—

Period	Variation percentage
1901—11	8.0
1911—21	2.8
1921—31	7.3
1931—41	20.3

From the historical and cultural point of view the Punjab has been from the very beginning the homeland of the Hindus. From times immemorial when the Aryans settled in the Punjab, which they called **Brahmi-Rishi Desh,** they named its five rivers as Vitasta, Chandrabhaga, Iravati, Vyasa and Shatadaru from which the modern names of Jhelum, Chenab, Ravi, Beas and Sutlej are derived. The last great river on the north of the Punjab was called by the Aryans as Sindhu, the modern Sindh or (Indus). The cities of Lahore and Kasur were established under their original names of Lavpur and Kushpur the sons of Sri Ram Chandra. The sacred places of the ancient Aryans stretch throughout this land from Multan—the city of Prahlad on one end to Jwala Mukhi and Vyas-kind in the north. Historically, the Hindus have been in continuous and complete political control of the Punjab till the time of the Muslim invasions. During the period of Budhistic Kings the supremacy of Taxila, the ancient **Taksha-Shila** as a great seat of learning was unchallenged. After the Muslim invasions the Sikhs ruled the Punjab till as recent a date as 1849. The Sikh shrines stretch from Sirhind on one side to Panja Sahib on the other with Amritsar and its Golden Temple in the centre of this land of five rivers. With these historical, cultural and religious associations the Punjab is the sacred homeland of the Hindus and the Sikhs rather than of any other religious community. Pakistan with its association of religious domination and emigration is unthinkable in view of the great past history of Hindu and Sikh communities. Moreover it is a patent fact that long before the British annexed the Punjab, the Hindus and Sikhs had reconquered it and had re-established their sovereignty in this province after driving out the Muslim intruders.

Looked at from the economic point of view, the land of five rivers can in no way be considered to be the homeland of the Muslims. The non-Muslim holdings are approximately over 50 per cent of the total and they pay Rs. 2,17,44,913/- revenue out of a total of Rs. 4,38,13,277/-. The major portion of urban immovable property is owned by the non-Muslims and they contribute no less than 80 per cent of the total tax. In the matter of income tax, the major portion of the contribution i.e. 85 per cent comes from the pockets of the non-Muslims. Towards the economic, commercial and industrial development of the province, the non-Muslims have played a very important part. Out of a total number of 58 banking concerns in the Punjab, the non-Muslims own 56 as against 2 owned by the Muslims. In the field of education, inspite of handicaps, the non-Muslims are responsible to a very great extent for the educational progress of the province as is evident from the table given below:—

Statement showing the number of High Schools and colleges in the Punjab.

	High Schools.	Colleges.
Hindus ..	133	25
Muslims ..	47	7
Sikhs ..	58	6
Government ..	120	27
Christians ..	18	7
M. B., D. B. ..	56	—
University	—	3

In the industrial and commercial uplift of the province the share of the non-Muslims is more than 90 per cent and this inspite of the discriminatory legislation and communal favouritism which has been the characteristic feature of the Punjab administration for the last 25 years or more.

The voters' lists for the elections of 1937, showed that the Hindus had a larger voting strength than their population percentage as is evident from the tables below:—

Total No. of voters.

Muslisms ...	1,336,313	49·7%
Sikhs ...	495,632	18·4%
General ...	837,462	31·2%
Anglo-Indians & Europeons etc. ...	16,689	·6%
Total ...	2,686,096	

No. of persons who voted in 1937.

Muslims ..	683,263 ..	45·8%
Sikhs ..	290.054 ..	19.1%
General ..	538,899 ..	35.6%

THE PUNJAB HINDUS UNDER THE ACT OF 1935

The Hindus of the Province who claim to be the descendants of the Aryans—the first settlers on the sacred land of the five rivers—have been treated as pariahs in the very land of their fore-fathers. In administration their separate existence has not been recognised though they constitute 28 per cent of the population. They are grouped in official records under the heading "general" and have been granted representation on the legislature below what they are entitled to on population basis.

According to the census of 1931, the Hindus including Budhists and Jains constituted 28.8 per cent of the population of the Punjab but the Act of 1935 gave them representation of 26 per cent. The Sikhs who constituted 13.2 per cent of the population were given 19.2 per cent representation. In Assam the Muslims constituted 31.8 per cent of the population in 1931 and were allotted 34 territorial seats out of a total of 93 thus giving them a share of 36.5 per cent in the legislature. The Hindus who constituted 57.7 per cent of the population were allotted 48 seats i.e. 51.6 per cent of the total. Similarly, in British India the Muslim population was 26.8 per cent whereas their representation was 33 per cent. It is evident that the Hindus not only have not been given any weightage in the Punjab but their representation is even below their population percentage. What greater injustice could have been done to a minority community? It is thus evident that under the Act of 1935, the Hindus of the Punjab have been allowed even less than what was recommended by the official memorandum of the Punjab Government.

In the end, we can do no better than quote the words of Mr. (now Sir) Manohar Lal in the minute recorded by him on the Punjab Government's proposals made in 1929 in connection with the Simon Commission:

> "The Hindus of the Punjab constitute a minority, that judged by every standard justifying special consideration, should receive additional representation as a minority: they have high voting qualifications, they have undertaken heavy sacrifices in the cause of general, social reform and have pursued successfully expensive programmes of educational work (at Lahore they have 3 Colleges as against 1 Muslim and in the Mofussil they have established a large number of High Schools, Intermediate Colleges and Degree institutions) and they take a notable position in all progressive movements. Political training, educational advance, economic strength alike point to special consideration for the Hindus here, once the standard of population is departed from in any part of India and communal representation is enforced."

Let us now consider the implications of the proposed scheme of Pakistan as envisaged by the Muslim League resolution of 1940.

IMPLICATIONS

According to the census reports of 1931 and 1941 the community-wise population figures for different provinces in the North-Western zone are given below:—

1941

	Total population	Hindus	Muslims	Sikhs	Others
Punjab	28,418,819	7,530,372	16,217,242	3,757,401	4,293.804
Sind	4,535,008	1,229,926	3,208.325	31,011	66,746
British Baluchistan	501,631	44,623	438,930	11,918	16,160
N. W. F. P.	3,038,067	180,321	2,788,797	57,939	11,010
Total	36,493,525	8,985.212	22,653,294	3,858.269	4,387,720

1931

	Total population	Hindus	Muslims	Sikhs	Others
Punjab	23.590,852	5,496 031	13,332,460	3,064,144	1,704,217
Sind	3,887.070	982,623	2,830,800	18,505	55,142
British Baluchistan	463,508	36,065	405,309	8,368	13,766
N. W. F. P.	3,792,307	177,582	3,544,534	42,510	27,681
Total	31,733,737	6,686,301	20,113,103	3,133,527	1,800,806

It is evident from the above tables that in the North West zone the Muslim population will be 63.4 per cent and 62.07 per cent as against 36.6 per cent and 37.8 per cent of non-Muslims. It is thus clear that the population of the proposed North West region will not be a homogenous one. The above scheme is, therefore, open to the same objection which is being raised by the Muslims residing in India. It may be pointed out that if 26.84 per cent of the Muslims cannot agree to live in a unified India under the so-called Hindu domination, how can 38.3 per cent of Non-Muslims be forced to live in Pakistan under Muslim domination!

The Punjab case against its inclusion in Pakistan is based on very cogent and strong reasons. The total population of the Punjab according to the census figures of 1941 is 28,418,819, out of which 57.06 per cent are Muslims, 27.82 per cent Hindus and others under general, 13.22 per cent Sikhs and 3.16 per cent others. From the administrative point of view the province is divided into 28 districts. As will be evident from the table it is only in 16 districts that the Muslims predominate while in 12 districts they are in a minority and in one district viz. Gurdaspur, the Muslims and the non-Muslims are well balanced:—

	Districts where Muslims are above 50%	Actual proportion of Muslims.		Districts where Muslims are below 50%	Actual proportion of Muslims.
1.	Attock	90.4%	1.	Amritsar	46.5%
2.	D. G. Khan	89.9%	2.	Jullundur	45.2%
3.	Jhelum	89.4%	3.	Ferozepur	45.0%
4.	Muzaffargarh	86.5%	4.	Ludhiana	36.9%
5.	Gujrat	85.5%	5.	Karnal	35.9%
6.	Shahpur	83.7%	6.	Gurgaon	33.5%
7.	Jhang	82.6%	7.	Hoshiarpur	33.3%
8.	Rawalpindi	80 %	8.	Ambala	31.7%
9.	Multan	78.6%	9.	Hissar	28.3%
10.	Gujranwala	70.4%	10.	Simla	17.9%
11.	Montgomery	69.1%	12.	Kangra	4.8%
12.	Sheikhupura	63.6%	11.	Rohtak	17.4%
13.	Lyallpur	62.8%			
14.	Sialkot	62.0%			
15.	Lahore	60.6%			
16.	Gurdaspur	51.1%			
17.	Mianwali	86.1%			

If the principle of self-determination is conceded to the Muslims in majority areas as demanded by Mr. Jinnah, there seems to be no earthly reason why the same principle should not be applied to the non-Muslim majority areas and why should they be forced against their will to cut themselves adrift from Hindusthan and go over to Pakistan. The demand of Mr. Jinnah for inclusion of the whole of the Punjab as such, therefore, is prepostrous and must be ruled out.

MR. RAJAGOPALACHARI'S FORMULA

The alternative scheme is that of Mr. Rajagopalachari which lays down that such districts in the North-West as are contiguous and have Muslim majority should be permitted to constitute a separate region, if they so desire. According to Rajaji's formula the seventeen districts in the North-West viz

Gujrat.	Multan.	Lahore.
Shahpur.	Lyallpur.	Gurdaspur.

Jhelum.	Jhang.	Gujranwala.
Rawalpindi.	Montgomery.	Sialkot. and
Attock.	Muzaffargarh.	Sheikhupura.
Mianwali.	Dera Ghazi Khan.	

will go with the Muslim majority areas of North-Western Frontier Province, Sind and Baluchistan and the remaining 12 districts will form part of Hindu India.

On this basis the population of the two demarcated areas of the Punjab according to the census of 1941 will be as follows:—

North-West Punjab.

Total Population.	Muslims.	Hindus.	Sikhs.
16,870,900	12,363,669	2,823,267	1,683,855
	73·3%	16·7%	10·%

South East Punjab

Total Population.	Muslims.	Hindus.	Sikhs.
11,547,919	3,853,593	5,620,800	2,073,546
	32·6%	49·9%	17·5%

From the above table it is evident that in the North-West region of the Punjab as against 73.3 per cent Muhammadans there will be 26.7 per cent non-Muslims, and similarly in the South-East region there will be 32.6 per cent Muslims as against 67.4 per cent non-Muslims. Working on the basis of Rajaji s formula we find that in the North-West Muslim majority zone consisting of Sind, Baluchistan, N.W.F.P. and the 17 districts of the Punjab, the population percentage of Muslims and non-Muslims will be as follows:—

Muslims	75.2 per cent.
Non-Muslims	24.8 per cent.

It is evident that the non-Muslim percentage of population in this area will approximately be the same as the population percentage of the Muslims in India as constituted at present. If the Muslims of India, as claimed by the Muslim League, are afraid to live in a united India with 66 per cent Hindu population, how can the Hindus of Pakistan zone be expected to agree to live in a 75 per cent. Muslim majority zone?

It is clear that the partition of India whether according to Rajaji's formula or according to Lahore resolution of the Muslim League does not afford any solution of the minority problem but rather aggravates the same.

REGIONAL AND RIVER BASIN SCHEMES

In addition to the Pakistan scheme the following two schemes have been suggested for the regrouping of the areas:—

1. Regional basis proposed by Sir Sikander Hyat Khan.
2. River basin scheme of Sir R. Coupland.

REGIONAL SCHEME

It is proposed to divide India into 7 groups as follows:—

1. Assam plus Bengal (minus one or two Western districts in order to reduce the size of the zone with a view to approximate it to other zones.

2. Bihar plus Orissa (plus the area transferred from Bengal.)
3. United Provinces plus United Provinces States.
4. Madras plus Travancore plus Madras States plus Coorg.
5. Bombay, Hyderabad, Western India States, Bombay States, Mysore and Central Provinces States.
6. Rajputana States (minus Bikaner and Jaisalmer) plus Gwalior, Central India States plus Bihar and Orissa states plus Central Provinces and Berar.
7. Punjab, Sind, N.W.F.P., Kashmir, Punjab States, Baluchistan, Bikaner and Jaisalmer.

This scheme does not solve the communal problem and will only reproduce, on a slightly greater scale, the same problem which it claims to set out to solve. While commenting on this scheme Sir R. Coupland on page 116 of his book, Part 3, "The Future of India" says:

> "The demarcation proposed by Sir Sikander, which he was careful to say, was 'only tentative', seems open to serious objections. The composition of some of the seven Regions does not seem to be based on any other principle than that of geographical continguity, and even continguity is not always observed. This weakness is clearly apparent in the treatment of South India in Regions 4 and 5. The principle on which those Regions are based is clearly not cultural; while they bring together all the Gujerati and Malayalam-speaking areas, they split up the Marathi, Telugu and Kannada. Nor are they based on the physical character of the country and its economic implications: they separate Mysore from all its natural associations: they treat the Central Provinces States as a separate group of islands and detach them from the Central Provinces with which—and to a lesser extent with Orissa and Madras—they have close tribal and other connections. It is still harder to detect a principle of cohesion in Region 6, a block of territory stretching across almost the whole width of India without any marked cultural identity, without any natural associations, and without any basis for common economic development."

RIVER BASIN SCHEME.

This scheme divides India into 4 regions and regroups them according to the four divisions tabled below:—

	British India	Indian States.
INDUS	North-West Frontier Province	Kashmir N.-W. Frontier Agencies & States.
	Punjab	Punjab States and Hill States
	British Baluchistan	Baluchistan States.
	Sind	Rajputana States.
	Ajmer-Merwara	Rajputana, except (a) and (b) below.

GANGES.	United Provinces Bihar Orissa.	United Provinces States Gwalior Orissa States. Central India States east of Gwalior Chhattisgarh States, except (c) below States from Rajputana: (a) Bharatpur, Bundi, Dholpur, Karauli, Kotah.
DELTA.	Bengal Assam	Bengal States. Assam States. Sikkim.
DECCAN.	Madras Bombay Central Provinces & Berar Coorg Panth Piploda	Western India States Central India States west and South of Gwalior Gujerat States Baroda States from Rajputana: (Banswara, Danta, Dungarpur, Palanpur) States from Chhatisgarh (c) Bastar, Chuikhidan, Kanker, Kawardha, Khairgarh, Nandgaon. Deccan and Kolhapur States Hyderabad Madras States Mysore Travancore Cochin.

The table below gives the population of Hindus and Muslims in these regions:—

	All India		British India	
	Hindus	Muslims	Hindus	Muslims.
Indus..	34.8	52.0	25.2	61.3
Ganges	78.7	15.2	79.0	13.2
Delta	41.7	50.9	41.5	51.6
Deccan	80.5	8.2	83.0	7.5

This scheme has been suggested on the American model of a large scale economic organisation known as "Tennessee Valley Authority" in United States. It is claimed by Sir R. Coupland that his scheme of regional division is based on economic principle which confirms both political aspirations of the Muslims for demarcation of their "homeland". Whatever be the means of the scheme on economic ground it offers no solution of the communal tension born of mutual distrust resulting from the separatist tendencies introduced in the constitution. Under this scheme there will

still be Muslims in Hindu regions and Hindus in Muslim regions as is evident from the table given above and the communal problem will continue to pester.

THE PUNJAB HINDUS AMBALA DIVISION SCHEME.

Another alternative Scheme that is suggested by some writers is that from the Punjab the Ambala Division may be taken out and allotted to U.P. This seems to be implied in the Pakistan resolution of the Muslim League where provision is made for territorial readjustments.

The taking away of Ambala Division from the Punjab will materially affect the population percentages of different communities and also the communal representation in Legislative Assembly. In the present constitution out of a total of 42 Hindu territorial seats as many as 16 are allotted to Ambala Division. The clash between the agriculturists and non-agriculturists in that case will become more bitter and will assume the form of Hindu-Muslim tension. The communal figures of population in Ambala Division are given below:—

Hindus	30,99,000	66.9 per cent.
Sikhs	2,40,000	5.1 per cent.
Muslims	13,18,000	28.0 per cent.

The exclusion of the Ambala Division from the Punjab would raise the Muslim majority in the rest of the province from the present figure of 57.1 per cent. to 62.7 per cent. The Hindus and the Sikhs of the rest of the Punjab are vehemently opposed to dismemberment of the Ambala Division as this would increase the Muslim percentage in population in the rest of the Punjab. The Muslims of Ambala Division are no less opposed to such a scheme as it would transfer them into the Hindu province of U.P.

There is another factor worth considering. The Punjab is a province of peasant proprietors and the Agriculturists and the non-Agriculturist populations are well nigh balanced. The tables below will afford an interesting study:—

	Statutory Agriculturists		Non-Agriculturists.	
Hindus	2,211,000	33.9%	4,368,000	66.1%
Muslims	6,728,000	58.8%	4,716,000	31.2%
Sikhs	1,508,000	65.8%	784,000	34.2%
	10,447,000		10,237,000	

(See 'The Wealth and Welfare of the Punjab' by Calvert).

	Percentage of holdings 1939	Percentage of total cultivated area 1939.
Under 1 Acre	20.2	.8
1 — 3	28.6	5.2
3 — 5	14.9	6.2
5 —10	16.9	13.1
10—15	7.3	9.1
15—20	3.6	7.2
20—25	2.2	5.6
25—50	3.9	14.8
Over 50	2.4	38.0

It may be noted that while the Muslim agriculturists predominate in the N.W. area of the Punjab, the Hindu agriculturists preponderate in the

South East while the Sikhs are found in majority in the Central Punjab which they claim as their "homeland". The dismemberment of Ambala Division will upset the class balance.

The working of the Government of India Act during the past seven years in the Province of Sind, N.W.F.P. and Punjab has disclosed that it is only in the Punjab that the Government has been stable. In Sind, with 73 per cent Muslim population three ministries one after the other tumbled down during the period of seven years and the fourth is so unstable that it is in the dangerous position of losing its centre of gravity at any time. Similarly in the N.W.F.P. with over 90 per cent Muslim population, the ministry has never been stable. The stability of Punjab ministry is to no small a degree due to the fact that the Muslims and non-Muslims, both in the population and in the provincial legislature, are well balanced and no one community can think of running the government without co-operation of the others. This fact was admitted in the majority report of the Punjab Provincial Committee which was appointed in 1928 to co-operate with the Simon Commission. The report said:

> "A large disparity between the communities in the present circumstances is undesirable in the interests of the province and good Government."

As communities are at present balanced, it went on to say:

> "there is not even a remote chance for any one community to form a cabinet on communal lines".

The table below gives the communal proportions in population and in the legislature.

	Muslims	Sikhs	Hindus & General	Others	Total
Population percentages in 1931	56.48%	13.2%	28.8%	1.7%	
Distribution of territorial seats in	86	32	43	4	165
Legislature with percentages	52.1%	19.3%	26 %	2.4%	

The above table brings out three points:

1. That in the Legislative Assembly the Muslims have been allotted 52.1 per cent of the territorial seats and thus have been given an unalterable majority in the Legislature.
2. That the Hindus and others under the heading "General Constituencies" have been allotted fewer seats than they are entitled to on population basis.
3. That the Sikhs who constituted 13 per cent of the population in 1931 have been allotted 19.3 per cent seats on the legislature.

The Punjab Hindus strongly resent the injustice done to them under the Communal Award and claim weightage as a minority community in the same proportion in which Muslims have been given in the Hindu majority provinces.

We are not in favour of materially disturbing the present boundary of the Punjab by big alignments and the only change that seems feasible under the present circumstances is that the administrative boundary of

the Punjab in the N.W. should correspond to the natural geographical boundary of the province. We, therefore, suggest that the district of D.G. Khan and the Tehsil of Isa Khel in the Mianwali district, which are situated beyond the Indus river. should be taken away from the Punjab and attached to the N.W.F.P. A similar suggestion was made by Hon'ble Sir Joginder Singh in his note giving his views on the recommendations of the Punjab Statutory Commission.

SIR SYED SULTAN AHMED'S FORMULA.

Sir Syed Sultan Ahmed is opposed to the formation of independent Muslim zones as envisaged by the Muslim League resolution. In his recent book "A treaty between India and the United Kingdom" he has adduced cogent arguments against Pakistan while looking from the point of view of the Muslims themselves. He has proposed a scheme of his own which is based on the "Draft Declaration". Some of the salient features are given below:—

1. The Union of India will be of a federal nature composed of colonies and sovereign units with residuary powers vested in them.
2. The provinces in North-West and North-East will form two such units with altered frontiers so as to substantially increase the population of the Muslims.
3. Communal representation in the Federal Legislature be as under:

Hindus	40 per cent.
Muslims	40 per cent.
Depressed classes	10 per cent.
Rest	10 per cent.

4. The cabinet will reflect the same communal ratio in the Assembly and be responsible to the Legislature. The Prime Minister will alternatively be a Muslim and a non-Muslim. The Deputy Prime Minister will be a Hindu when the Prime Minister is a Muslim and a Muslim when the Prime Minister a Hindu. The Defence Minister will be a Muslim if the Commander-in-Chief is a non-Muslim and vice versa.
5. Subject to efficiency the civil service will reflect the same proportion as fixed for the Legislature and the Executive.
6. Composition of Indian fighting forces will be as follows:

Muslims	50 per cent.
Hindus	50 per cent.

Sir Syed Sultan Ahmed claims that his plan should give "distinct satisfaction" to the non-Muslims, who are placed in a status of equality with the Hindus and ought to make an appeal to the Hindus for the reason that while their community is called upon to make some sacrifice. it is not sacrificed. His partiality towards the Muslims is evident and their reactions cannot but be favourable to his proposals. But so far as the Hindus are concerned his suggestions are patently so prepostrous that the Hindus will never touch with a pair of tongs any future scheme based

on his plan. The absurdity of Sir Sultan Ahmed's proposal will be evident from the following tables giving the relative position of different communities in the fighting forces of India.

1930

Communities	Percentage in infantry Excluding Gurkhas	Percentage in infantry including Gurkhas	Percentage in Calvalary
Hindus	66.5%	50.55%	61 92%
Gurkhas	....	16.4%	....
Muslims	35.79%	29.97%	30.08%
Burmans	3.66%	3.07%	....

(Dr. Ambedkar's Book on "Thoughts on Pakistan").

Figures as they stood on 1st September 1943

	Combatant I. O. Rs. & V.C. Os.	R. I. N. Officers.	I. A. F. Officers	R.I.N. & I.A.F. other ranks.
Hindus	47%	32.3%	47.6%	59.5%
Muslims	32%	18.1%	16.6%	17.0%
Sikhs	7%	3.5%	11.7%	2.0%
Gurkhas	5%	....	....	....
Christians	5%	....	....	....
Others	2%	....	....	....

	Artillary	Indian Infantry	R.I.A.S.C.
Hindus	57%	41%	55%
Muslims	28%	25%	36%
Sikhs	10%	7%	5%
Gurkhas	....	24%	....
Others	5%	3%	4%

(Reply to a question in the Central Assembly Debate).

Sir Sultan has tried to placate the Muslims at the cost of the Hindus while in the provinces of Bengal and the Punjab the Muslims do not want their majorities in population to be reduced to minorities in the Legislatures and the Executive and the services at the centre he recommends that this rule should be abrogated and the majority should be reduced to minority. In plain words the proposals of Syed Sultan Ahmed imply that the Hindus should pay the revenues which the Muslims should have the right to spend. The maintenance of the administrative machinery should be the concern of the non-Muslims while its control should be the privilege of the Muslims. The non-Muslims, more especially the Hindus, have to think hundred times before they can give their consent to any such arrangement.

SOLUTION OF THE INDIAN PROBLEM.

It will be easily conceded that the Muslim League demand for Pakistan is the consummation of the separatist tendency introduced in Indian politics by separate electorates on communal basis and weightages for various communities, based as they are, on the well-established British policy of counterpoises. Such a demand is a clear confession that neither separate electorates nor weightages have succeeded in safeguarding the rights and interests of the minority communities. They have further increased communal tension. While, on the one hand, the Muslims are suspicious of the

Hindu majority in certain provinces and at the centre, on the other hand, the non-Muslims are no less afraid of Muslim domination in certain other provinces and in the proposed Pakistan. And for a good reason too. They have not forgotten the treatment they received at the hands of their Muslim rulers. Not a temple was left standing from Peshawar to Patna. No woman's honour was considered safe. Forcible conversion and forcible executions were the order of the day. Even now the cases of Kohat and much more recent cases of Haripur in N.W.F.P. and Ahla in the Punjab are sufficient reminders to the Hindus as to what they should expect in Pakistan. It is a matter of common knowledge that communal representation in India has disintegrated the society; coloured the outlook of the legislature with communalism, hindered the formation of parties on economic and political basis and accentuated rather than diminished differences and bitterness. The sooner they are done away with, the better would it be for all concerned and the country.

The religious, economic and cultural rights of the minorities should be safeguarded by incorporating the fundamental rights in the constitution. We feel confident that with the abolition of the communal electorates the communal suspicion that has possessed the mind of the various communities will be removed and parties will be formed on the basis of economic interest and political proclivities. We can then hope that a Muslim Prime Minister may be appointed in the Hindu majority province and a Hindu Prime Minister in a Muslim majority province. We can do no better than quote in the end from an interview given by the Hon'ble Pir Illahi Bux, Minister, Sind Government, to a press representative on his recent return from Haj. He is reported to have said:

> "That a wave of nationalism had swept over the Arab countries. They stood united, in spite of their internal differences, while dealing with external issues. He was surprised to learn that the Arabs, although large sections amongst themselves were Christians felt proud in calling themselves Arabs first, Muslims and Christians next. In Syria, although Muslims were in majority the Prime Minister was a Syrian Christian. Similarly, in Lebanon, Christians were in majority, yet the Premier was a Lebanon Muslim. This remarkable example of internal unity in the Arab countries is worthy to be adopted in India he said, "likewise, in India we ought to feel proud to call ourselves as Indians first and Hindus and Musalmans next."

PARALLEL TO PAKISTAN PROBLEM.

The problem of communal representation in India has its counterparts in Ceylon and Kenya, where it differs in degree though not in essence. In India, however, it has been dealt with differently from that in Ceylon and Kenya. * * * The overseas commissioners studied the problem in Ceylon and Kenya in a more straightforward manner.

• • •

The Ceylon problem like that of India, consists of various elements. The total population of Ceylon as recorded at the time of the census of 1931 was 5,312,548. Out of these the Sinhalese Buddhists numbered 3,550,000, the Tamil Hindus numbered 790,000, the Moors Malayas Mohammedans numbered 325,000. The Christians together with Burghers and Europeans accounted for 45,000.

The Donoughmore Commission, after thorough study, came to the conclusion that the introduction of communal representation in legislature of Ceylon accentuated rather than diminished racial differences and did not help to develop any uniting bond or link. They brushed aside all the official reasons given for the retention of communal representation. They held that communal representation tended "to keep communities apart, and to send communal representation to the Council with the idea of defending particular interests instead of giving their special contribution to the common weal", and therefore, recommended:

> that "only by its abolition will it be possible for the various diverse communities to develop together a true national unity."

The Commission remarked that

> "it is precisely for this reason that they had urged the abolition of the present system of communal representation which had exercised an influence on society wholly pernicious in that 'it has created an ever-widening breach between communities and has tended to obscure the national interests in the clash of rival races or religion'."

The Governor of Ceylon endorsed the view of Donoughmore Commission and the Secretary of State for Colonies Lord Passfield accepted the recommendations of the Commission and the new constitution of Ceylon without the principle of communal representation came into existence in 1931.

A similar parallel is afforded by Kenya. The population figures as disclosed by Hilton Young Report are as given below:—

Europeans	12,529
Arabs	10,557
Indians	26,759
Other races	3,824

In July 1923 His Majesty's Government decided that the interests of all concerned would best be served by the adoption of communal system of representation. Under this decision provision was made for five elected Indian members on the Council as against eleven elected Europeans; and the number of official members was fixed so as to maintain an official majority.

The announcement, however, caused dissatisfaction amongst Indians who asked for an effective representation of their interests and equality of political status. Thereupon the Hilton Young Commission was appointed. The Commission reviewed arguments for and against communal representation and recommended: "Our view is that, in as much as the progress of the territory must depend on co-operation between the races, the ideal to be aimed at is a common roll on an equal franchise with no discrimination between the races."

We feel convinced that India has been put on the wrong track and unless the wrong steps taken are retraced, no solution of the Indian problem is possible. We, therefore, suggest that separate electorates be scrapped and the principle of joint electorates with adult franchise be adopted. The rights of the minorities being safeguarded by means of fundamental rights. The policy of pacification by conceded communal concessions has not succeeded in the past and is not likely to succeed in the future.

APPENDIX No. VII

SIKH LEADERS' MEMORANDUM FOR THE CONCILIATION COMMITTEE

A. INTRODUCTORY

The position of the Sikhs in India is so unique that it is impossible to find even a distant parallel to it. They are six million in population, out of whom over four million live in British India, and thus on a population basis, they constitute the third largest community in British India, the other two being Hindus and Muslims. But their political, historic and economic importance is out of all proportion to their numbers.

2. The rise of Sikhism was coeval with the emergence of the Moghal power in India in the fifteen century, till by the end of the seventeenth century, after having tried all peaceful and legitimate means of persuading the aggressive Muslim conquerors to let them and the Hindus live a life consistent with their self-respect and dignity, they constituted themselves into a military and militant organisation called the Khalsa. Throughout the eighteenth century, they faced a relentless war of extermination and faced it so well and heroically that it is impossible to find a comparison in the whole history of mankind, where a weak and oppressed people resolutely stood in dignified protest against the greatest Empire of the Times, and carried the torch of resistance and revolution from generation to generation till by their matchless sacrifices and superhuman determination they emerged as the foremost political power in Northern India. The Empire they built was destroyed by the diplomacy of the British aided by the fatality of circumstances, in the middle of the nineteenth century, but even their worst enemies will not assert that the Sikhs surrendered abjectly to the British, or laid down arms without a struggle.

3. Since the annexation of the Sikh Empire with British India, the Sikhs have played a most noteworthy part in the making of the Punjab of to-day, and have made contributions towards the defence of India, and towards its economic and political life, which are out of all proportion to their small numerical strength, but which are in keeping with their historic role in the political and cultural life of India.

4. The Sikhs are admittedly the best agriculturists and colonists in India, and on account of their efforts in this direction, they are known as the makers and sustainers of the agricultural Punjab. No other community can even remotely compare with the Sikhs as the creators of the food reserves of the Punjab, and therefore of the whole of India. It is significant that only those districts and regions of the Punjab which are mainly cultivated by the Sikh farmers are the surplus food districts, and they are therefore, primarily entitled to the credit of having helped the whole of India out of the recent food crisis.

5. In the matter of defence of the country, the services which the Sikhs have rendered are even more remarkable. The intelligent student of history knows that the credit of having effectively closed the North-West Mountain Passes through which hordes of foreign invaders have

come to India to disturb its cultural and political life for thousands of years goes to the Sikhs. They are rightly described as the backbone and flower of the Indian Army. Although the Sikhs are less than two per cent. of the population of India, their strength in the Defence Forces was over thirty per cent in the second half of the nineteenth century, and during the last War, it was about fifteen per cent. Even during this War, in spite of the strength of the Indian Defence Forces having been increased to twenty-five lakhs which is more than twelve times its previous peace-strength, they are in the neighbourhood of ten per cent. The quality of a Sikh as a soldier and a fighter does not need elaboration.

6. The Note prepared by S. Harnam Singh, M.A., B.Sc., LL.B., Advocate, under the title "Homeland of the Sikhs" may be treated as part of this memorandum. The facts and figures on this point are so clear and overwhelming that nothing but sheer audacity can account for any claim to the contrary, including the facetious claim that the Punjab is a Muslim Province, or that it comprises one of the homelands of the Muslims. The Sikhs have more than seven hundred historic Gurudwaras in the Punjab with rich endowments, and undying memories of their Gurus, saints and martyrs attached to them. The Sikhs have set up and are financing over 400 educational institutions, colleges, schools, girls' seminaries and technical establishments, thus making a contribution towards the educational progress of the Province out of all proportion to their numerical strength and far in excess of any such contribution made by other communities, particularly the Muslims. The policy of, and the atmosphere prevailing in these institutions, are more liberal and non-communal than in any similar institution run by other communities.

7. The major heads of the Provincial Receipts are land revenue, excise, stamps and water rates, which in themselves constitute seventy-six per cent of the total revenues. Of these, it can be safely asserted that the Sikhs contribute more than forty per cent. One has only to refer to the difficulties experienced in the early colonisation days and see how the Colonisation Officers are full of praises for the Sikh Colonists. By sheer dint of their hard work, the Sikhs have not only made barren and waste lands fertile but also have created an insatiable desire amongst the Punjabis for canal irrigated land which has incidentally raised the price of land. The Sikhs own the best and most fertile lands of the Province, the fertility of which is not so much the result of accident as the result of sustained labours of the Sikh cultivators themselves.

8. In view of these considerations it is difficult to appreciate the Muslim claim that the Punjab is a Muslim Province, particularly so, when the non-Muslims own more than eighty per cent of the urban property and pay more than eighty per cent of Income-tax and Urban Property Tax in the Punjab. An overwhelmingly major proportion of the industrial enterprises, factories, mills, the insurance companies, film industry and business, shop-keeping, trade and commerce is in Non-Muslim hands, not so much again by accident, but by virtue of their skill, industry and special aptitude. The cultural life of the Province is primarily created and determined by impulses emanating from non-Muslim sources.

9. Even the superior numerical strength claimed by the Muslims is based on facts and figures the authenticity of which cannot be seriously

relied upon by any detached student. The circumstances and the atmosphere under which the various Census Operations have been conducted in the Punjab, are indicated in the Note referred to in para no. 6 above, and in view of these considerations it is impossible to describe the Communal Award by which the British Government have foisted the statutory Muslim communal majority over the heads of the Hindus and the Sikhs in the Punjab, except as a piece of arbitrary high-handedness.

THE CONSTITUTION ACT OF 1935

10. This Constitution Act gives to the Sikhs thirty-three seats in a House of one hundred and seventy-five in the Punjab, three seats in a House of fifty in the N.W.F.P., six seats in a House of two hundred and fifty in the Federal Legislative Assembly if and when it comes into being. and four seats in the Council of State in a House of one hundred and fifty. Thus this Act has reduced the Sikhs into complete ineffectiveness in all spheres of the political life of the country. No seat has been reserved for the Sikhs in the legislatures of the U.P. and Sind where they constitute important minorities or in other provinces where they have considerable economic interests. This treatment meted out to the Sikhs by the British Government, cannot be justified either in view of the actual and potential importance of the Sikh community in the Punjab Province and India as a whole, or even in view of the consideration and principles which this Government has applied to the Muslim minorities in the Provinces as well as at the Centre. The Muslims form about thirteen per cent of the population in the U.P., as the Sikhs in the Punjab. But the Muslims have been given thirty per cent of the seats in the United Provinces Assembly, whereas the Sikhs have been given only nineteen per cent seats in the Punjab Provincial Assembly. Similarly, the Sikhs in the N.W.F.P., though small numerically, have historical and cultural claims on the Province. They were the rulers of this province till recently and it is the Sikhs who have protected and preserved its integrity as a part of India. It is the Sikhs who have rescued and preserved whatever is left in the Province of its ancient and indigenous non-Muslim religious and cultural life. The Sikhs, therefore, are entitled to be treated on a much more liberal scale than they have been under the present Constitution. During the last ten years, minority representation in the Provincial Cabinet of the N.W.F.P. has been exclusively monopolised by the Hindus to the complete exclusion of the Sikhs.

Again, in the United Provinces, the population of the Sikhs, officially calculated, is about two and a half lakhs though the actual numerical strength of the Sikhs is at least the double of this figure. Indian Christians and Anglo-Indians in the Province number a lakh and a half. The latter have been given three seats in the Provincial House while the Sikhs have been completely ignored although the Sikhs, besides their numerical strength, hold an economic position in the Province which entitles them to a weightage on principles which have been made applicable in the case the Indian Christians and Anglo-Indians. The Sikhs are Taluqdars, landlords and mill-owners in the Province and own and direct a considerable portion of the trade and business of the Province.

They also own a number of historic Gurdwaras in the Province, and in the past, particularly in the eighteenth century, have played an important part in the political life of this region.

In Bengal, Anglo-Indians have been granted four seats in the Provincial Legislature with a numerical strength of a little over thirty thousand while the Sikhs have not been given even a single seat though they number over sixteen thousand.

In Sind, the Census figures show that the Sikhs are over thirty-one thousand strong though, as a matter of fact, they number in lakhs. A large majority of the non-Muslim population of Sind is Sikh in religious profession and outlook. Anyhow, they are a growing minority and they own a considerable amount of agricultural and urban property in the Province. It is unfair to deny them any representation whatever in the Provincial House.

The treatment meted out to the Sikhs in respect of allocation of seats in the Council of State is also demonstrably unjust in so far as only four seats out of hundred and fifty have been given to them. Similarly, only six seats have been allocated to them in the Federal Assembly. In the Minority Pact, arrived at in London at the time of the Round Table Conference to which Pact the Sikhs were not a party, five per cent seats were allocated to Sikhs in the Federal Legislature. In the Allahabad Unity Conference in 1932, it was unanimously decided to give fourteen seats to the Sikhs in the Federal House out of a total number of three hundred but the British Government for reasons best known to them, have failed to recognise the Sikh claim. There is no justification for discrimination between the Sikhs, the Europeans and the Anglo-Indians and the Indian Christians in the matter of allocation of seats in the Council of State and in the Federal Assembly.

WORKING OF PROVINCIAL AUTONOMY AND THE SIKHS

11. The Communal Award transferred all power in the hands of a Muslim Majority calling itself by the name of Unionists.

During the Montagu-Chelmsford Reforms, there were three Indian Executive Councillors or Ministers in the Punjab out of whom one was a Sikh. Moreover, all these three Ministers were equal in status and authority. In 1926 one more Muslim was added to the Cabinet and up till 1937 the Sikhs retained twenty-five per cent representation in the Provincial Cabinet. The first effect of the Provincial Autonomy of 1937 was that the share of the Sikhs in the Executive Government of the Province was reduced to one-sixth. That in effectiveness, this one-sixth share was reduced to microscopic proportions will be clear from what follows. Although the electorate was communal with the reservation of seats for the majority community in the formation of the Cabinet, the British method of Government by majority was enforced in its entirety, with the result that the leader of the statutory Muslim majority group automatically became the Leader of the House. As if this was not enough, he was given the power to get Ministers appointed and dismissed not only of his own community but also of those taken from the minority communities, the Hindus and the Sikhs. Even this did not satisfy

the ever-expanding Muslim desire for complete domination of the Province, and with the support of the British bureaucracy, the Rules of business of the Cabinet were so framed that no decision could be taken without the consultation and consent of the Premier with the result that in each and every case the Premier has the last word. Thus he became in theory, as well as in practice as the experience of the non-Muslim Ministers has confirmed, the undisputed Fuehrer in the Provincial Administration, particularly, in matters which did not affect the rights and privileges of either the British Civil Servants or the Imperial interests. Thus, the Provincial Autonomy has reduced the Sikhs and the Hindus in the Province to a state of political subjugation and helplessness. The communal rule has perpetrated indignities on the Hindus and the Sikhs of the Province and has exasperated them to the point of a revolutionary protest. The conditions created by the War furnish the sole explanation for the apparent calm with which the Hindus and the Sikhs have submitted to this tyranny. During the recent Unionist Party and Muslim League differences in the Province, the Premier has added yet another Muslim Minister to the Cabinet thus reducing the formal strength of Sikhs in the Cabinet from one-sixth to one-seventh.

12. The Muslim hold on the executive and administrative life of the Province has been further tightened during this Autonomy regime by making all the key posts that fell vacant or were vacated, a monopoly of the Muslims. Now almost all the key positions in the various departments of the Provincial Administration are held either by Europeans or Muslims, a few still remaining in the hands of the Hindus. The Sikhs have been designedly excluded from effective participation in the administrative machinery. Even in the matter of recruitment, the Muslim political caucus has not relented in their aggressive communal policy. The Sikh personnel in the Government services in the Province is less than 10% although by a paper convention it has been fixed at twenty per cent and no serious attempt is being made or has been made to redress this glaring injustice to the Sikhs. The position of the Sikhs, in the services under the local bodies and other semi-Governmental institutions, such as the University of the Punjab, is even worse. No wonder that this has resulted in a general and unabated mal-treatment of the Sikhs at the hands of the administration in all spheres of administrative activity.

The Sikhs have established, it is repeated, an unproportionately large number of educational institutions in the Province, following a policy of liberality in these institutions which may be looked for in vain in the institutions of other communities. The Unionists, however, have done everything in their power to thwart the work of these institutions by reducing the Government grants-in-aid in some, and by refusing to recognise others for the purpose of such grants-in-aid. In spite of the great contributions which the Sikhs have made towards the educational life of the Province, they have been given no voice in the Punjab University and the Education Department, there being only 7 Sikh fellows out of a total of 84 in the Punjab University Senate.

Again, Punjabi is admittedly the spoken language and the mother-tongue of the Sikhs, Hindus and the Muslims in the Province, and yet, so

deeply has communalism permeated into the fibre of the Muslims and in this respect also of the Hindus, that both these communities have formally disowned their mother-tongue, Muslims in favour of Urdu and the Hindus in favour of Hindi. The administrative work of the Government is conducted in Urdu and written in the Persian script. Urdu has also been enforced as the medium of instruction even at the primary stage irrespective of the evil consequences which it entails on the mental growth of the children whose mother-tongue is different and unrelated to their medium of instruction. The Unionist Ministry has done everything in its power to thwart the teaching of Punjabi even carried on solely or primarily by private enterprise. Thus, not only the Punjabi child must be taught even the rudiments of the three R's in an artificial language and alien script but even the day-to-day administration of the Province, including the dispensation of justice, must be based on records prepared exclusively or primarily in that language. In this way, the intellectual and cultural growth of the Province is being thwarted and stifled.

The Unionists have done everything in their power to degrade and demoralise the Sikhs by interfering in the practice of their religion arbitrarily, and merely with a view to make them feel that they are a subject and subjugated people in their own homeland. The Sikhs slaughter animals for the purpose of meat in a manner which is practised throughout the civilised world i.e., the method of killing the animal with one stroke, called the 'Jhatka'. The Muslims, on the other hand, prepare meat by the 'Halal' method. This consists in slowly cutting the lower portion of the neck of the animal. The Muslims take the most violent exception to the slaughtering of an animal in any other method except their own, and by executive acts have stopped the preparation and use of 'Jhatka' in Government and semi-Government institutions. It will be well to remember in this connection that a Sikh who takes meat prepared by the 'Halal' method commits an act of apostacy.

13. The whole Governmental machinery under the Muslim majority rule is biassed in favour of the Muslims and against the non-Muslims. For instance, primary education in the province is under the charge of the local bodies, such as District Boards and Municipalities, and the Provincial Government makes grants to these local bodies on the basis of the expenditure which they thus incur. The Western Districts of the Punjab, which are predominantly inhabited by the Muslims, generally receive a higher percentage of grants-in-aid than the Central Districts. Again, in the Western Districts, no fees are charged from the scholars of agricultural classes, while no such exemption is granted to similar scholars in the Central Districts.

The concessions and facilities, usually given for the purpose of education and franchise to the Scheduled Castes are not given to those members of the Scheduled Castes who embrace or have embraced Sikhism.

14. A planned and sustained policy of discriminating against, and brow-beating, the Sikh officials in the Government services has become an undisguised feature of the Autonomy Regime in the Punjab. Every Sikh officer must feel that he belongs to a community which is a subject and subjugated community under the Muslims, and all Sikh officers, particu-

larly those in the Executive Departments, must be humiliated and crushed so that they may never aspire to afford any protection to Sikhs or Hindus in the day-to-day administration. The Sikh community or the Sikh Minister in the Cabinet is unable to afford any protection whatever to such officers who are thus being constantly mal-treated and oppressed. The statutory safeguards for the services provided in the Government of India Act, 1935, making the Governor the custodian of the rights and privileges of the Public Service, in practice, have failed to give any protection to the Hindu and Sikh officers.

15. All this has resulted in a deterioration in the status and integrity of the public service thus creating a state of affairs in which the elementary rights of neither the non-Muslim public nor the public services are safe. There are instances in which communal murders have been committed, and the offenders have been saved from the natural and legal consequences of their acts by executive interference in the most arbitrary manner.

GRIEVANCES IN PROVINCES OTHER THAN THE PUNJAB

16. What the Sikhs have suffered in the Punjab has been the result of a deliberate and designed anti-Sikh policy with a view ultimately to eliminate the Sikh community from an effective voice in the life of the province. In provinces other than the Punjab, the Sikhs have suffered from various handicaps owing to the emergence of uncontrolled provincialism in some cases and owing to the lack of an effective voice of protest on the part of the Sikhs in other cases.

The province of Bombay is the only province in India in which the Sikhs are forbidden to keep and wear Kirpans over a certain length. Even the Congress Ministry could not see its way of redressing this serious religious grievance of the Sikhs.

In the Central Provinces and Berar, the Congress Government placed an arbitrary ban on the carrying on of business in the province by contractors who did not "originally" belong to that province. This was done obviously to disqualify the Sikhs from pursuing their lawful avocations in that province, as large number of contractors were Sikhs.

In the province of Assam, over four thousand Sikhs live there from time immemorial. They speak Assamese and observe the customs and manners of the Assamese. They and their forebears were born and brought up in Assam and are, therefore, as good Assamese as anybody could be. With the inauguration of Provincial Autonomy, any Sikh who applied for entry into the Public Service in the province was required to prove that he was not a Punjabi and in practice before such proof was forthcoming, the job went to a non-Sikh Assamese.

The Sikhs have built up a successful bus-service business in Calcutta, and more than once, attempts during the past years have been made to oust them from their lawful avocations.

In the province of U. P. both the interim and the Congress Ministries discouraged the spread of Sikhism in the province by state action, particularly by denying scholarships and other facilities to children belonging to the Scheduled Castes, whose parents embraced Sikhism. The Governor's regime has now righted this wrong.

In the province of Sind, more than once attempts have been made to debar the Punjabi Sikhs by legislative action from acquiring landed property in the province.

In the N.-W.F.P. during the Congress Ministry, no grant was at all made either to a Sikh or Hindu educational institution, and the notorious circular dated the 11th of October, 1937 laid down that no institution would be given educational grant unless it adopted Urdu as the medium of instruction, although the mother-tongue of the Hindus and the Sikhs and many Muslims in the province is Punjabi. This Ministry has also passed the Marketing Act which gave only twelve per cent representation to the traders on the Marketing Committees which in practice meant less than twelve per cent representation to the Hindus and the Sikhs and eighty-eight per cent representation to the Muslims notwithstanding that most of the traders in the province are non-Muslims. In the appointment of E.A.C.'s and Tehsildars, Sikhs and Hindus were scrupulously ignored and this was admitted on the floor of the Assembly that the share of the Sikhs and Hindus in the Public Services was reduced from twenty-five to seven per cent in education and fourteen per cent in other branches of the administration. In the State educational institutions in the province, text-books written by the Jamiat-ul-Ulema were introduced. To eliminate the representation of the Sikhs and the Hindus in the local bodies completely, the nominated element was abolished without providing any representation for them. Arbitrary restrictions on access to and worship in the Gurudwaras sacred to the memory of Guru Nanak in Peshawar were imposed.

GRIEVANCES AT THE CENTRE

17. Prior to the Gurudwara Reform Movement of 1919-25 the Sikh representation in the Indian Army was twenty per cent but thanks to the clever manoeuvring of Mian Sir Fazli Hussain, the Gurudwara Reform Movement became a protracted affair and the Sikh appeared to the Britisher a rebel. The result was that the Sikh representation in the army was cut down substantially. In the recruitment to the non-military Central Indian Services, the Sikhs received no better treatment. In the 1934 Service Award the Sikhs were lumped with the Anglo-Indians, Indian Christians, and Parsees for whom eight and one-third per cent share was reserved. This was perhaps deliberately designed to affect the Sikhs adversely in the Central Services, for the Sikhs could not be expected to compete favourably with the advanced communities like Anglo-Indians and Indian Christians and Parsees while the Hindus and Muslims were permitted to compete only with their own co-religionists. This has resulted in a very meagre representation of the Sikhs in these important services. Under the Central Government, in the Secretariat, Federal Public Service Commission, the Federal Court, the Income-Tax Tribunal, the Railway Board and many other boards and committees appointed from time to time, the Sikhs find no place. This has adversely affected the Sikh position in the administrative life of the country. When the Railway Department was under a Muslim Executive Councillor, he forbade the sale of 'Jhatka' meat on railway platforms. The Postal Department even in the Punjab, discourages by all possible means the use of the Punjabi language and Gurmukhi script, and the All-India Radio even at the Lahore Station treats the Punjabi language with contempt.

B. CONCILIATION COMMITTEE QUESTIONNAIRE

18. In addition to the other fundamental rights which may be incorporated in any future Constitution of India, the following fundamental rights should be incorporated in the Constitution with the specific aim of affording protection to and preservation of certain inalienable rights of the Sikh community.

19. **Part I—Fundamental Rights.**

(i) Free profession and practice of religious faith is guaranteed in India. Untouchability in any shape or form shall be deemed repugnant to the fundamental policy of the State.

(ii) The preparation and use of 'Jhatka' meat shall be freely allowed and that 'Jhatka' meat shall be treated on par with 'Halal' meat.

(iii) No law shall be enacted, or no executive order given to restrict in any manner or to any extent whatever, the manufacture, sale, the keeping and the wearing of Kirpans by the Sikhs.

(iv) The State shall recognise the inalienable right of the Sikh community as such to the ultimate ownership, direction and control of all Sikh Gurudwaras, Shrines and religious endowments and the control and management of such institutions shall vest in the Sikh community in accordance with its declared will as expressed from time to time, collectively or regionally.

(v) The State shall protect the maintenance intact of all Gurudwaras, Shrines, religious institutions and the endowments attached to them as a fundamental right of the Sikh community as a whole, and none of the endowments or properties attached to these institutions shall be resumed or acquired by State action and the State shall not create, by financial assistance, or otherwise, any endowments or institutions out of taxes and proceeds not specifically and exclusively collected from the members of the religious community for the benefit of which such new endowments, etc., are sought to be created. Vice-versa, no person may be compelled to pay taxes, the proceeds of which are to be appropriated in payment of purely religious expenses of any religious community or endowments, of which he himself is not a member.

(vi) The right to employ the mother-tongue for social and cultural intercourse and for the conduct of the administrative business in the region in which it is dominantly spoken, shall be primary right constitutionally guaranteed.

(vii) The right to freedom of speech, freedom of assembly, freedom of meeting, freedom of street processions and demonstrations, freedom of press and propaganda, must be guaranteed as a fundamental right.

(viii) Liberty to establish and change one's place of dwelling is guarranteed in India. No person may be deprived of this right save by the Courts. Restrictions may also be placed upon this right by other authorities for reasons of public health in such cases and in such manner as may be prescribed by law.

(ix) Freedom to choose one's occupation as well as to originate enterprises or industries of an agricultural, commercial industrial or other nature in all parts of India is guaranteed irrespective of the Province of one's domicile.

(x) That the public officials may not be provisionally removed from office or permanently retired, or transferred to any other post with a lower salary, save in accordance with, and in a manner determined by law, and that, every penalty inflicted on a public servant must be subject to appeal and the possibility of revision by an authority, different from, unconnected with and independent of the punishing authority. Unfavourable entries may not be made in the personal files of public servants unless those public servants have been given the opportunity to reply to them, and the Public Servant must be given the right to examine their personal files.

(xi) The State shall not adopt or encourage any measure or policy designed or calculated to further the imposition of any allied, artificial or alien language on any people, other than the language which is demonstrably their mother-tongue, and except as a secondary and subsidiary language.

(xii) All communities shall have a right to establish and maintain educational, charitable, religious and other institutions with full liberty to impart instruction in their own mother-tongue. Such institutions shall receive grants-in-aid from the State on a uniform basis. The existing grants-in-aid to denominational institutions shall not be reduced.

(xiii) The State shall make adequate arrangements in all educational institutions maintained by the State and local bodies for the instruction of minorities through the medium of their mother-tongue and their special script if any.

(xiv) The Constitution shall guarantee the Punjabi to be the Court and the official language of the Punjab with option to the various communities to use Urdu or Gurmukhi script.

(xv) The Constitution shall provide that no bill, motion or resolution shall be introduced in the Legislature which is opposed by three-fourths of members of Hindus or the Muslims or the Sikhs or any other minority in that Legislature. Provided further that in the passing of any bill, motion or resolution affecting exclusively a single community, members of other communities shall not have a right of vote.

20. The fundamental rights which are incorporated in the Constitution should be enforceable by a Court of Law and any person or group of persons may lodge a suit against the State for such enforcement. And such of those rights which are not justifiable can only be enforced by effective political power and by providing a special machinery such as the Minorities Commission referred to hereunder.

21. With regard to the steps which are necessary to secure an adequate share and equal opportunities in the Legislature, Executive Governments and the Services, etc., the demands of the Sikhs in so far as Punjab

is concerned are:—That no single community should enjoy an absolute majority in the Legislature. The allocation of seats should be forty per cent Muslims, thirty per cent. Sikhs and thirty per cent. other non-Muslims. This proportion must also be reflected in the composition of the Executive Government as well as the Services and this must be guaranteed by Statute. The Minister for Law and Order should always belong to the Minority community.

22. An independent Minorities Commission, to deal with such rights and matters as are not enforceable by a Court of Law is extremely desirable. This Commission may be appointed by election through specially set up electoral colleges, the qualifications prescribed for candidates for election to be fixed on a fairly high standard with a view to ensure the return of suitable persons with approved ability and integrity. All the recognised communities shall have equal representation on this Commission.

23. With regard to the advancement of Backward Classes such as the Scheduled Castes, Aboriginal Tribes, the Mazhbi Sikhs and the Ramdasia Sikhs, we suggest that these Classes should be provided with special educational facilities and also facilities to enter Public Services with the proviso that such facilities shall also be available to any of the members of these Castes or Tribes who have embraced Sikhism.

PART II

24. The position of the Sikhs vis-a-vis the Musim League demand for Pakistan is well known. They are irrevocably opposed to any partition of India on a communal basis. Their opposition is based on considerations which are also well known: some of them being that the demand is unnatural, reactionary, and is in opposition to the best political and economic interests of the country as a whole as well as of the portions and regions sought to be partitioned off; that it militates against the lessons of history and requirements of geography; and that it signs the death-warrant of the future of the Sikh community as a whole. That the spurious grounds which are being advanced for justification of this claim are in themselves untenable, is apparent from the observations that have already been made and also from the facts and figures quoted in the enclosed manuscript. We may briefly add that the Pakistan offers no solution of the Communal tangle which is bound to be aggravated in divided India. The claim proceeds upon the assumption that the Punjab is a homeland of the Muslims which as set out in the enclosed manuscript is wholly untenable claim. The demand for Pakistan does not take any account of the existence of the Sikh States of Patiala, Jind, Nabha, Kapurthala, Faridkote and Kalsia which are predominantly non-Muslim in population. They are surrounded on all sides by the districts of the British Punjab. Needless to mention that the States have an inseparable connection with the Sikhs in British Punjab.

25. The C. R. Formula is open to all the objections which have been raised by the Sikhs against Pakistan. As a matter of fact, this formula contemplates worse fate for the Sikhs than the Pakistan demand; for in the latter case, they can at least look forward without satisfaction to the probability of being persecuted, and dying together, while in the former

case, a small compact community is divided into almost two equal parts each going into two independent sovereign states.

26. We have been asked as to whether we have any views to express in case the Pakistan scheme is imposed on us by an authority whose power we cannot hope to challenge successfully and which may be the British Government or the agreed will of the Hindus and Muslims of India. In that case, we would insist on the creation of a separate Sikh State which should include the substantial majority of the Sikh population and their important sacred shrines and historic Gurudwaras and places with provision for the transfer and exchange of populations and property.

PART III

27. We cannot conceive of an independent and strong India capable of holding its own in the international world which does not include the Indian States. The State subjects should enjoy the same rights and privileges as may be enjoyed by British Indian subjects.

PART IV

28. We are in favour of a very strong Centre for in the strength of the Centre lies the strength of the constituent parts of the All-India Union. This strength of the Centre, however, must be consistent with the fullest opportunity to the constituent parts and regions to develop their own economic and cultural resources, and to manage their local affairs in their own way. The list of subjects, therefore, for the Centre as well as for the constituent units should be exhaustively scheduled with the above-mentioned principle in view. As regards the residuary powers we are not in a position to give any definite opinion until the final picture of the Indian Constitution is before us.

29. We are opposed to the Cripps Proposals—particularly to the provision of a liberty clause in respect of provinces or States not acceding to an All-India Union. Our objections to the Cripps' Proposals were clearly stated in our Memorandum submitted to Sir Stafford Cripps (a copy of which we are enclosing). These proposals took no account of the Sikhs either in the matter of separation of the Punjab from an All-India Union or in the constituent Assembly to be set up for framing the new Constitution. We frankly expressed our disappointment to Sir Stafford Cripps. We believe our frankness left some impression on him as is evident from his speech as well as that of Mr. Amery after the return of Sir Stafford to England. For the benefit of the Committee, we may quote from those speeches.

Sir Stafford Cripps speaking in the House of Commons on the rejection of his proposals said:—

> "The more dispersed but still an important minority of the Depressed Classes desired specific protection against adverse effects of the caste system **while the Sikhs, that brave fighting race (cheers) who have done and are doing so much to help Britain in the defence of India, desire some form of protection against the majority rule by another community."**

Mr. Amery in winding up the debate stated:—

"On the other hand the particular method which we suggest for arriving at a constitutional settlement, more particularly, on the present provincial basis, both for setting up a constitution making assembly and for non-accession is not meeting with such sufficient support for us to press it further. **It may be that alternative methods might arise which might form a better basis for the definition of boundaries and might give representation for smaller elements such as Sikhs whose natural aspirations we appreciate.**"

(b) We are opposed to granting liberty to units for non-acceding to the Union but in case it is accepted by others, this power should be exercised by an absolute majority of sixty-five per cent.

(c) We do not agree to the recognition of the right of cessation from the All-India Union once it has been formed.

30. We are in favour of the principle of re-alignment of the provincial boundaries to ensure self-expression and cultural autonomy to the various elements in India's national life but so far as the Punjab is concerned in any fresh alignment, it must be ensured that a substantial majority of the Sikh population remains compact in one unit and that all the important historic Gurudwaras, Shrines and places are included in that unit.

PART V

31 (a) The Parliamentary system of majority rule has not proved successful in the Province. It has fostered intrigues, corruption and inefficiency. The minorities have suffered greatly. We think that an irremovable executive both at the Centre and the Province of a composite nature on which the important minorities are adequately represented, would be more suitable than the present method. We would prefer the adoption of the Swiss model with suitable modifications.

(b) All important communities should be represented on the Central and Provincial Executives. The method of representation should be election by the members of the various communities.

In regard to the representation of the Sikhs, we wish to say that a Sikh should always find a place in the Central Executive. In the Punjab, the Sikhs should have a minimum of one-third share as was the case from 1921 to 1926 in the Executive on the ground of their special importance already explained.

In the N.-W.F.P., one seat should be given to a Sikh in the Provincial Cabinet.

32 (a) We favour an extension of the franchise and would like to have adult suffrage introduced provided competent administrative machinery can be set up to ensure free voting. Failing this we recommend that the franchise qualifications which apply to the Scheduled Castes at present should apply to all.

(b) For the present, electorates will have to remain separate for defferent communities.

(c) We favour the direct method of election to the Lower House and indirect to the Upper Houses.

(d) In the Punjab Assembly Sikhs should have thirty per cent. of the total number of seats and the Muslims should have forty per cent. and the other minorities including Hindus thirty per cent. It will be seen that by this arrangement the Muslims still remain a majority group although they will not be in absolute majority against all other communities combined. The Muslims can have no objection to the proposed allocation of seats especially when they object to the Hindu domination at the Centre. In case the Muslims agree to this proposal in the Punjab they shall have made a good case for the abolition of Hindu majority at the Centre. The Sikhs demand seven per cent. of the total seats in the Central Legislature.

In the N.W.F.P. the Sikh seats should be equal to the Hindu seats with a minimum of ten per cent. as Sikhs have played and are playing an important role in the life of the Province. The great general of the Sikhs, Sardar Hari Singh Nalwa and Akali Phoola Singh, died fighting in this province while defending the gates of this country. The Sikhs have got their sacred Gurudwaras in this land. The community therefore deserves special consideration.

In U.P. the Sikhs should be recognised as a separate community and should get at least one seat in the Council and five seats in the Provincial Assembly with its present strength; in U.P. the Sikhs should be given concessions and facilities similar to those given to the Backward Classes. Similarly in Assam, Bengal, Bombay, Bihar and C.P. each, Sikhs should have at least one seat reserved for them. In Sind at least two seats should be allotted to them.

No amendment of the Constitution of the important communities in each Legislature for the amendment. For once enforced should be made without sixty per cent. votes of the members this purpose and for all other purposes the Sikhs shall be treated as an important community.

PART VI

The Constitution-making body proposed in the Cripps' proposals appears to be the proper machinery for framing new constitution provided it is laid down that the Sikhs and other important minorities shall have representation with higher weightage in that body than they have in the Legislature.

PART VII

We think that pending the enforcement of the new constitution, the Federal part of the Government of India Act should be put into operation with certain modifications to satisfy the natural aspirations of Indians. The Executive Council should be completely Indianized. The selection may be made by the Governor-General at the recommendation of the popular parties and the Executive Council may remain responsible to the Crown for the time being but the convention may be established as was done in the Provinces that the Governor-General would normally accept the advice of his Councillors. The conduct and operation of the War should continue to be the responsibility of the Commander-in-Chief but all other matters under the purview of the Government of India should be entrusted to the Executive Council and the individual members.

PART VIII

In the event of failure to reach agreement on the part of different communities, His Majesty's Government should take the initative and notwithstanding the opposition of the Muslim League settle the question according to the agreement of the principal elements in the Indian life including Muslims outside the League.

India cannot remain in a state of tutelage when all the countries are fighting for freedom. The deadlock in India is a challenge to the ideals and principles of the United Nations and is not only the responsibility of the British Government but of all the United Nations that a satisfactory solution of the Indian problem be found.

ARMY

. The question of the army is not included in the Questionnaire, but the Sikhs attach great importance to it. They have intimate connections with the Indian Army so much so that army service is their first choice. Their ideology, their history and tradition make them fine soldiers.

Their strength in the army was nearly nineteen per cent. up to 1920-21. It was deliberately reduced during the Akali Movement. During the last and the present World Wars when the doors of the army were thrown wide open to members of all communities and classes alike, the Sikhs have maintained their strength in the Defence Forces of the country. Sikh soldiers have won several awards of bravery and courage shown on the battlefields. They wish to maintain their connection with the Defence Forces of India at least to the extent of their contribution during the last World War. The Sikhs attach great importance to this question and no solution of the constitutional problem will satisfy them unless their share in the Armed Forces is defined to the extent mentioned above. The religious discipline which the Sikh soldiers have to observe should continue to be enforced and the same should apply to the Sikh Officers in the Indian Army.

SERVICES

In the Central Services and those recruited on all-India basis, the share of the Sikhs should be defined. By the Award of 1934, the share of the smaller minorities is fixed at eight and one-third per cent. The Sikhs do not get their legitimate share out of this proportion. It is only just and equitable that this eight and one-third per cent. should be split up between these minorities according to their population and importance and the Sikh share should in no case be less than five per cent. of the Services.

In the Punjab, the share of the Sikhs should be fixed at 25 per cent.; N.-W.F.P. 10 per cent. and an adequate share in Sind, U.P., Baluchistan and Delhi. Even if future recruitment is made at this percentage it will take several years before the Sikhs in the Punjab will be able to attain their full share.

In the High Court at Lahore the Sikh share should be fixed at the same percentage as for other Provincial services.

Besides, the Sikhs should be represented on the Federal Service Commission and other Recruitment Boards, Committees, Railway Board, In-

come-Tax Tribunal, Federal Court and other important bodies in a suitable manner. They have been altogether ignored in the past in these matters and have suffered considerably.

LOCAL BODIES

A formula should be devised for the adequate representation of minorities in the local bodies and for their share in the Services under those bodies.

SIKH UNIVERSITY

The Sikhs are anxious to establish a University of their own at Amritsar on the lines of Aligarh and Benares Universities. The Punjab has at present only one University at Lahore. Even on educational grounds there is need for another University. The Sikhs demand that Government should encourage them by the grant of a charter and financial assistance to realise their natural aspirations in this respect.

The following have signed the Memorandum :

1. Master Tara Singh, Amritsar.
2. Sardar Sampuran Singh, M.L.A., Lahore.
3. Giani Kartar Singh, M.L.A., Lyallpur.
4. Sardar Surjit Singh Majithia, Amritsar.
5. Rai Bahadur Basaka Singh, New Delhi.
6. Sardar Bahadur Sardar Jodh Singh, Principal, Khalsa College, Amritsar.
7. Sardar Bahadur Sardar Boota Singh, Sheikhupura.
8. Sardar Lal Singh, M.L.A, Ludhiana.
9. Sardar Swaran Singh, Advocate, Jullunder.
10. Sardar Modhindar Singh Sidhwan, Ludhiana.
11. Dr. Randhir Singh, M.D., Lahore.
12. Sardar Harcharan Singh Bajwar, Sialkot.
13. Master Sujan Singh Sarhaili, Amritsar.
14. Sardar Santokh Singh, M.L.A., Amritsar.
15. Sardar Bahadur Ujjal Singh, M.L.A., Lahore.
16. Sardar Jogindar Singh Mann, M.L.A., Sheikhupura.
17. Sardar Pritam Singh Siddhu, M.L.A.
18. Sardar Balwant Singh, M.L.A.
19. Sardar Sodhi Harnam Singh, M.L.A.
20. Captain Sardar Naunihal Singh Mann, M.L.A.
21. Sardar Gurbachan Singh, M.L.A.
22. Sardar Sher Singh, M.L.A.
23. Sardar Ajit Singh, M.L.A.
24. Sardar Prem Singh, M.L.A.
25. Sardar Jagjit Singh Mann, M.L.A.
28. Sardar Ishar Singh Majhail.
27. Sardar Sahib Tara Singh, M.L.A.
28. Sardar Ishar Singh Majhail.
29. Bhai Fateh Jang Singh, M.L.A.

APPENDIX No. VIII

MINORITIES SUB-COMMITTEE

The following are the recommendations of the Minority Sub-Committee which were adopted by the General Committee during the recent session:-

GENERAL FUNDAMENTAL RIGHTS

The General Committee approved only the ideas underlying the following clauses and not the actual texts.

1. In India there is freedom of religion and conscience.

2. All inhabitants of India shall have equal right to practice, in public or in private any faith, religion or creed whatsoever, and to assemble for the conduct of religious service in public, in so far as the exercise of these rights does not violate the law or public order and morality and they are exercised with due regard to the religious sentiments of other communities.

3. All inhabitants shall be entitled to establish, manage and administer at their own expense, religious, charitable and social institutions, schools and other educational establishments and shall have the right to the free use of their own language and script if any and the free exercise of their own religion in such institutions.

Pursuant to this right, they shall be entitled to acquire, own, transfer, hold in trust moveable and immoveable property subject to the general laws.

4. All inhabitants shall be free to preach their religion, so far as they do not violate the law or public order and morality.

5. No inhabitant shall be deprived of his public rights by change of religion.

6. No citizen shall be subjected to any disability or prejudiced by religion, caste, creed, colour or sex in regard to public employment, in any office of power or honour or in the exercise of any trade or calling.

SPECIAL RIGHTS

1. It shall be the duty of the State to impart education to the children of a minority, of sufficient numerical strength, up to the stage of elementary education, in their own mother tongue, and where this is not possible the State shall give adequate aid to such institutions as cater to this need of such minorities.

2. Liberty to establish and change one's place of dwelling is guaranteed in India, subject to public morality and health.

3. Freedom to choose one's occupation as well as to originate enterprises or industries of an agricultural, commercial, industrial or other nature is guaranteed in India. No person may be deprived of this right, save in accordance with and subject to the limits laid down by law.

4. There shall be no discrimination with regard to the continuance or fresh allotments of educational grants-in-aid to denominational insti-

tutions. These grants, as far as possible, shall be commensurate with the number of pupils receiving instruction therein.

This provision does not, in any way, affect the guarantees given to the Anglo-Indians in this regard in section 83 of the Government of India Act 1935.

SPECIAL PROVISIONS FOR SIKHS

1. The rights of the Sikhs for the use of the **jhatka** meat should not be interfered with.

2. No law shall be enacted to restrict in any manner or to any extent whatsoever the manufacture, sale, keeping and wearing of kirpans by the Sikhs.

(Note.—The Report contained proposals for Minority Commissions which have been embodied with amendments in the general recommendations. It also made suggestions regarding representation in Legislatures and executives which were taken into account when recommendations on those matters were finally adopted.)

NOTE BY SARDAR SANT SINGH

I find myself unable to agree to the proposal relating to land settlement. The recommendation that 'land which is cultivable but not occupied or fallow land brought under cultivation through new irrigation projects should be given to the members of the Scheduled Castes who are landless agricultural labourers' is of too sweeping a nature to be practicable. It becomes absolutely unpractical, in my view, when this recommendation is further amplified, as is done in the report, that 'if necessary, steps may be taken where possible to acquire land by legal means for this purpose'. So long as society remains, as it is today, no single class however important it may be, can have such claim on a state as to practically get all the fallow land reserved for it in a constitution of India. Besides that if such a claim is once admitted, it is likely to give rise to similar claims by other backward classes. It also involves financial commitment of unlimited character. The Scheduled Classes can claim and rightly too, to be uplifted so that their potential value to the State be utilised to the full extent for the benefit of India as a whole. I am very clear in my mind that any class, which is allowed to lag behind, will retard the progress of all. Therefore, I am in full sympathy with the Scheduled Classes to come to their own in educational, economic, social and political sphere. But I cannot bring myself to agree to any proposal which may affect the efficiency of the State and involve it in financial commitment, which the State may find impossible to meet. Secondly, I am also unable to agree to the recommendation that a representative of the Tribal people should find a place in the executives of the Governments of Bihar, Assam and C.P. and Orissa. If self-government is established in India, under any constitution, such government must aim at efficiency of high order. The first few years of such a government are bound to be years of very great trial for it to establish its claim to good government. Hence no sentimental considerations should be allowed to include all and sundry in the cabinet without

regard to the claimants' qualifications for such inclusion. Thirdly, I will like to add that Mazhabi Sikhs and Ramdasi as in the Punjab should be given all the benefits provided in this report."

NOTE BY MR. N. M. JOSHI

"If the proposals made by the Committee for electoral purposes are not acceptable to all sections of the Scheduled Castes I shall accept any proposals which the majority of the representatives of the Scheduled Castes in the constituent assembly approve for that purpose."

We have already drawn attention to the fact that Mr. Joshi did not agree to our resolutions Nos. 4 and 6, i.e. on the question of the 'division of India' and on the question of 'non-accession and secession'.

APPENDIX No. IX

SCHEDULED CASTES AND MINORITIES

The following are the recommendations of the **Scheduled Castes Sub-Committee** which were adopted by the Conciliation Committee during the recent session:—

FUNDAMENTAL RIGHTS

To protect the interests of the members of the Scheduled Castes, it is essential to incorporate the following fundamental rights in the Constitution. They are of two kinds: (1) General, applicable to all citizens. (2) Special, intended to remove the social and religious disabilities of the Scheduled Castes.

[N.B.—The Committee approved only the ideas underlying the following clauses and not their actual texts.]

GENERAL FUNDAMENTAL RIGHTS

1. All citizens are equal before the law and possess equal civic rights.

2. There shall be no penal law, whether substantive or procedural of a discriminative nature.

3. All citizens have the right to education without any distinctions of caste or creed in the matter of admission into any educational institutions, maintained or aided by the State.

4. No person shall, by reason of his religion, caste or creed be prejudiced in any way in regard to public employment, office of power or honour and the exercise of any trade or calling.

5. All citizens have an equal right of access to, and use of public wells, reservoirs, tanks, hostels, restaurants, parks and all other places of public resort. This shall not apply to religious institutions of any community.

6. No form of forced labour shall be permitted.

SPECIAL FUNDAMENTAL RIGHTS

7. No public authority shall, in carrying out the functions and duties entrusted to it under any law, recognize any custom or usage imposing a

disability on any person on the ground that he belongs to a Scheduled Caste or a menial class.

8. No civil, criminal or revenue court shall, in adjudicating any matter or executing any order, recognize any custom or usage imposing any civil disability on any person on the ground of his caste or status.

9. Notwithstanding any custom or usage or prescription, all Hindus without any distinction of caste or denomination, shall have equal right of access to and worship in public temples. Rules of personal purity and conduct prescribed for admission to and worship in public temples shall in no way, discriminate against or impose any disability on any person on the ground that he belongs to a Scheduled Caste.

REPRESENTATION IN LEGISLATURES AND EXECUTIVES

The sub-committee recommends the adoption of adult franchise.

It suggests the continuation of the method of election prescribed in the Poona Pact, for another ten years, subject to the proviso that, in the primary election for the panel, no candidate shall be deemed to be elected unless he secures 20 per cent of the votes polled.

The representation of the Scheduled Castes in the Central as well as the Provincial Executives shall be commensurate with their numbers.

REPRESENTATION IN SERVICES

The Scheduled Castes should be given representation in all branches of services in proportion to their population, and till their economic and educational level reaches the average standard of the whole of India, special concessions in the matter of age, education and other conditions, should be granted subject to the requirements of the efficiency of the services.

SUGGESTIONS FOR RAPID ADVANCEMENT

The Sub-Committee recommends the following steps for this purpose:
(a) The offer of special educational facilities.

If the new scheme of compulsory education is enforced, these castes will benefit immensely. In all stages above the compulsory, students from these classes, if their parents earn less than Rs. 50 a month should, if found suitable for higher education, be provided with free board, lodging and tuition for ten years. Stipends and scholarships may be awarded to the selected candidates from these classes, to enable them to obtain higher training both in India and abroad. Even in the compulsory stages, it may be necessary to give financial aid in some cases. All this will mean expenditure and so, special provision should be made in both the Provincial and the Central Budgets, until their numbers in all the stages of education approximate to those for the whole country.

(b) Land Settlement.—Out of land at the disposal of the Government and which is cultivable but not occupied or fallow land brought under cultivation through new irrigation projects, adequate provision should be made to the members of the Scheduled Castes who are landless agricultural labourers. When the Provincial Governments come into existence under the new Constitution, steps may be taken, if necessary and possible, to secure land by legal means for this purpose. In the proposed distribution

of land to demobilized soldiers, the claims of the members of the Scheduled Castes should be given due consideration.

ABORIGINAL TRIBES

The inhabitants of tribal areas are found scattered over the six provinces of Madras, Bombay, Bihar, Central Provinces, Assam and Orissa. They live mostly in hills and forests. They live under a traditional tribal system and their great needs are the protection of their land and their customary life, health and education services.

In the present constitution, they are divided into wholly and partially excluded areas. In the former, the Governor controls the administration at his 'discretion' and in the latter, the Ministers are entitled to advise the Governor who exercises his 'individual judgment' in discharge of his special responsibility for the peace and good government of the areas. (See sections 91 and 93 of the Government of India Act, 1935). It is the last vestige of dyarchy in the provinces.

It is obvious that the Governments of the Provinces in which these areas lie should be ultimately responsible for and be entrusted with the administration of these areas.

POLITICAL

If the tribal areas (see Sixth Schedule, Government of India Act) are attached to the provinces, provision should be made for the return of their elected representatives to the Legislative bodies. There are, at present in the Provincial Legislative Assemblies seats for the representatives of the Tribal areas as under:—

Madras	1	Central Provinces	1
Bombay	1	Assam	9
Bihar	7	Orissa	5

When the excluded and partially excluded areas are transferred to the provinces, the seats for the tribal people require to be increased in proportion to their numbers. Their constituencies shall be territorial and not separate electorates.

The sub-committee recommends that there should be one representative of the tribal people in the Executive Governments in C.P., Bihar, Assam and Orissa.

The facilities for education, land settlement and representation in services suggested for the Scheduled Castes are recommended for adoption with suitable modifications in case of aboriginal tribes. The administration of their areas should be under the control of a Commissioner who is selected for his special knowledge of any sympathy for the tribal people.

APPENDIX No. X

(CORRESPONDENCE BETWEEN THE CHAIRMAN AND MR. JINNAH).

Copy of a letter dated 10th December 1944 from the Rt. Hon'ble Dr. Sir Tej Bahadur Sapru, Chairman of the Conciliation Committee, to Mr. M. A. Jinnah, President of the All India Muslim League.

As you may be aware, the Standing Committee of the Non-Party Conference met at Delhi on the 18th and 19th of November last and passed a resolution, in accordance with which I made a statement at a Press Conference on the 19th of November, 1944. I am enclosing herewith a printed copy of the resolution and a summary of my statement. Accordingly, a Committee has been appointed and the names of its members have appeared in the press. It will soon begin to function.

The main function of the Committee is exploratory. It will endeavour, by personal contacts and otherwise, to ascertain the views of the main political parties in regard to the basis of the future Constitution of India. It will study carefully the full implications of the proposals of the Muslim League in regard to Pakistan as well as the full import of the proposals made by Mahatma Gandhi and Mr. C. Rajagopalachari during the recent Gandhi-Jinnah talks. It will study with no less care the demand of the Hindu Mahasabha, of the Sikhs, of the Scheduled Classes and other important bodies. The Committee hopes that by a thorough and unbiased examination of these conflicting views, it may find it possible to make concrete suggestions which may pave the way for solution of the present controversies.

I am, therefore, earnestly approaching you, on behalf of the Committee and on my own behalf, to enquire if you will kindly allow me and one or two other members of the Committee to see you in order to obtain clarification on the practical aspects of the problem. I shall therefore be much obliged if you would kindly fix two alternative dates that may suit you and also let me know the place where we can meet you.

[Copy of the letter dated 14th December 1944 from Mr. M. A. Jinnah, to the Rt. Hon'ble Sir Tej Bahadur Sapru.]

I am in receipt of your letter dated December 10th, enclosing therein a printed copy of the resolution passed by the Standing Committee on the 18th and 19th of November last, and also a summary of your statement at the Press Conference of the 19th ultimo. and I thank you for them.

I regret to say that I cannot recognize the Non-Party Conference or its Standing Committee, and it follows therefore that I cannot recognize the Committee recently appointed by the Standing Committee of the Non-Party Conference for the purpose and the manner in which you propose to proceed and deal with the present political situation. My views about your Non-Party are already well-known to you and the public. In these circumstances, I am unable to comply with the request contained in your letter.

However, I hope that you will understand that I do not mean any discourtesy to you personally, and that had you desired to meet me otherwise than on behalf of the Non-Party Conference or the Committee referred to in your letter, I would have been glad to see you.

[Copy of a letter from Rt. Hon'ble Dr. Sir Tej Bahadur Sapru, to Mr. M. A. Jinnah.]

This is simply to acknowledge your letter of the 14th of December, which I received yesterday (16) evening. One day prior to the receipt of

your letter, i.e., on the 15th, I had heard from some press correspondents here that my letter and your letter only confirmed what I had heard already before its arrival.

I note that you are unable to see me on behalf of the non-Party Conference or the Committee which has been appointed by it.

I presume you will have no objection to my issuing this letter to the press.

APPENDIX No. XI

(CORRESPONDENCE BETWEEN THE CHAIRMAN AND THE HON'BLE DR. AMBEDKAR)

[Copy of a letter from Rt. Hon'ble Dr. Sir Tej Bahadur Sapru, to the Hon'ble Dr. B. R. Ambedkar, Member, Viceroy's Executive Council.]

I have already done some work in connection with the proposed Committee. I must express my thanks to you for the sympathy you showed to me at Delhi and for your readiness to help us. I shall be grateful if you will kindly send me the names of the representatives of the Depressed Classes and ask them to agree to membership of my Committee. You may be sure that every latitude will be given to every one for the expression of opinion freely and we shall approach all questions relating to the Depressed Classes and others with every desire to appreciate their point of view and to secure their genuine interest. I also hope, you will send me the necessary material showing what exactly should be done for the Depressed Classes.

With kind regards.

[Copy of an Express telegram from Sir T. B. Sapru, to Hon'ble Dr. Ambedkar, New Delhi.]

Please send me two promised names with addresses and relevant literature.

[Copy of a telegram from Sir T. B. Sapru, to Dr. Ambedkar, Member, Executive Council, New Delhi.]

Anxiously awaiting Scheduled Castes names Conciliation Committee. Expect also other material. Wire reply.

[Copy of a letter from Hon'ble Dr. B. R. Ambedkar, New Delhi to the Rt Hon'ble Sir Tej Bahadur Sapru, Allahabad.]

I was on tour for the last fortnight. Consequently, did not get your letter and telegram until I reached here yesterday evening. In the meanwhile, I read in the Press the names of those whom you have chosen to be members of your Committee. I am sorry to say, the personnel of the Committee has forced me to take a different view. I must say that some of the members do not inspire any confidence in me. They are persons who have been parties to the communal controversy and are imbued with preconceived notions in regard to the question of minority rights. I always understood that your Committee was to be a Committee of pure jurists

who would express an opinion on the reasonableness or otherwise of the demands made by various minorities in India. This is what I had bargained for, when I assured you of my co-operation. But I find that your Committee is quite different, both in its composition as well as in its purpose. Under the circumstances, I must decline to nominate members of the Scheduled Castes on the Committee. I am prepared to co-operate if you will reconsider the personnel of your Committee and eliminate from it every active and partisan person, and make it a small body who will do nothing more than report.

[Copy of a letter dated 10th December 1944, from Sir Tej Bahadur Sapru, to Hon'ble Dr. B. R. Ambedkar, Member, Governor-General's Executive Council, New Delhi.]

Personal

I thank you for your letter of the 6th of December which I received yesterday. I had been waiting all this time to hear from you. I see now that you cannot see your way to nominating members of the Scheduled Castes on the Committee because you have taken exception to the names of those whom I have chosen to be the members of my Committee. I am very sorry to see that you have arrived at this decision. I have taken good care to exclude men who belonged to either the Congress, the Muslim League or the Hindu Mahasabha. It would be impossible for me to find persons who have not, at one time or another, expressed some kind of opinion, but the point is whether these persons can approach the question now with a free mind. There are four retired Judges and I have no doubt that they will play a great part in weighing documents and coming to certain conclusions. It was never the intention--and I did not say this to you--that the Committee would consist wholly of retired Judges. I am sure, I could never have given this impression to you as I did not give it to any one else. I, therefore, think that you are wrong in saying that my Committee was to be a Committee of 'pure jurists'. In fact I may remind you that you said to me, in the presence of Sir Jagdish Prasad, that I could talk over the matters to you and you would be good enough to supply me with the necessary material. You did not think that I did not need to have any representatives of the Scheduled Castes on the Committee, if I talked over matters to you, but both Sir Jagdish Prasad and I thought that it was desirable to have one or two members of the Scheduled Classes. As I have announced the personnel of the Committee, it is out of question for me to reconsider the personnel and ask any man to leave the Committee.

Am I to take it that I am not to approach you also for private discussions of anything, in this connection, which I may require to discuss with you? I am afraid you have taken a wrong view of my attitude. I am fully alive to the nature of the criticism that has been urged in certain circles and I am quite ready to work in the midst of these difficulties, leaving it to the country to consider whether we have arrived at independent conclusions or not.

Thanking you for your letter.

APPENDIX No. XII

(EXTRACT FROM A NOTE BY SIR SYED WAZIR HASAN)

"I sincerely regret that I shall not be able to attend the sittings of the Committee which commence from tomorrow, the 29th of March.

Indeed, I feel that whatever little I could do in the matter of the deliberations of the Committee, I have done and I also further feel that we have already reached definite conclusions and there nothing remains to be discussed now.

Having regard to the rapid succession of the events in the last few days and also to the eventful days that lie ahead, I think, it will be desirable that you publish the decision of the Committee as soon as possible and the report may follow it.

I would, however, like to add on my own behalf that as an alternative to our proposals unanimously agreed to, I urge upon the Committee the acceptance of Cripps' proposals. These proposals have certain merit which may induce that section of the Mussalmans of India whom the League claims to represent and in placing Cripps' proposals through your report, I would make a fervant and most sincere appeal not only to all my countrymen, but, in particular, to all political parties as well for their acceptance."

APPENDIX No. XIII

WHITE PAPER ON INDIA DATED 14TH JUNE 1945.

"1. During the recent visit of Field Marshal Viscount Wavell to this country His Majesty's Government reviewed with him a number of problems and discussed particularly the present political situation in India.

"2. Members will be aware that, since the offer by His Majesty's Government to India in March 1942, there has been no further progress towards the solution of the Indian constitutional problem.

"3. As was then stated, the working out of India's new constitutional system is a task which can only be carried through by the Indian peoples themselves.

"4. While His Majesty's Government are at all times most anxious to do their utmost to assist the Indians in the working out of a new constitutional settlement it would be a contradiction in terms to speak of the imposition by this country of self-governing institutions upon an unwilling India. Such a thing is not possible, nor could we accept the responsibility for enforcing such institutions at the very time when we were, by its purpose, withdrawing from all control of British Indian affairs.

CRIPPS OFFER STANDS

"5. The main constitutional position remains therefore as it was. The offer of March 1942 stands in its entirety without change or qualification. His Majesty's Government still hope that political leaders in India may be able to come to an agreement as to the procedure whereby India's permanent future form of Government can be determined.

"6. His Majesty's Government are, however, most anxious to make any contribution that is practicable to the breaking of the political deadlock in India. While that deadlock lasts, not only political but social and economic progress is being hampered.

"7. The Indian Administration, over-burdened with the great tasks laid upon it by the war against Japan and by the planning for the post-war period, is further strained by the political tension that exists.

"8. All that is so urgently required to be done for agricultural and industrial development and for the peasants and workers of India cannot be carried through unless the wholehearted co-operation of every community and section of the Indian people is forthcoming.

"9. His Majesty's Government have therefore. considered whether there is something which they could suggest in this interim period, under the existing constitution, pending the formulation by Indians of their future constitutional arrangements, which would enable the main communities and parties to co-operate more closely together and with the British to the benefit of the people as a whole.

METHOD OF APPOINTING EXECUTIVE COUNCIL

"10. It is not the intention of His Majesty's Government to introduce any change contrary to the wishes of the major Indian communities. But they are willing to make possible some step forward during the interim period, if the leaders of the principal Indian parties are prepared to agree to their suggestions and to co-operate in the successful conclusion of the war against Japan as well as in the reconstruction in India which must follow the final victory.

"11. To this end, they would be prepared to see an important change in the composition of the Viceroy's Executive. This is possible without making any change in the existing statute law except for one amendment to the Ninth Schedule to the Act of 1935. That Schedule contains a provision that not less than three members of the Executive must have had at least ten years' service under the Crown in India. If the proposals I am about to lay before the House meet with acceptance in India, that clause would have to be amended to dispense with that requirement.

"12. It is proposed that the Executive Council should be reconstituted and that the Viceroy should in future make his selection for nomination to the Crown for appointment to his Executive from amongst leaders of Indian political life at the Centre and in the Provinces in proportions which would give a balanced representation of the main communities including equal proportions of Muslims and Caste-Hindus.

"13. In order to pursue this object, the Viceroy will call into conference a number of leading Indian politicians who are the heads of the most important parties or who have had recent experience as Prime Ministers of Provinces, together with a few others of special experience and authority. The Viceroy intends to put before this conference the proposal that the Executive Council should be reconstituted as above stated and to invite from the members of the conference a list of names. Out of these, he would hope to be able to choose the future members whom he would re-

commend for appointment by His Majesty to the Viceroy's Council, although the responsibility for the recommendations must, of course, continue to rest with him, and his freedom of choice, therefore, remains, unrestricted.

"14. The members of his Council, who are chosen as a result of this arrangement would, of course, accept the position on the basis that they would wholeheartedly co-operate in supporting and carrying through the war against Japan to its victorious conclusion.

"15. The members of the Executive would be Indians with the exception of the Viceroy and the Commander-in-Chief, who would retain his position as War Member. This is essential so long as the defence of India remains a British responsibility.

RELATIONS WITH INDIAN STATES

"16. Nothing contained in any of these proposals will affect the relations of the Crown with the Indian States through the Viceroy as Crown Representative.

"17. The Viceroy has been authorised by His Majesty's Government to place this proposal before the Indian leaders. His Majesty's Government trust that the leaders of the Indian communities will respond. For the success of such a plan must depend upon its acceptance in India and the degree to which responsible Indian politicians are prepared to co-operate with the object of making it a workable interim arrangement. In the absence of such general acceptance existing arrangements must necessarily continue.

"18. If such co-operation can be achieved at the Centre, it will no doubt be reflected in the Provinces and so enable Responsible Governments to be set up once again in those Provinces where, owing to the withdrawal of the majority party from participation, it became necessary to put into force the powers of the Governors under Section 93 of the Act of 1935. It is to be hoped that in all the Provinces these Governments would be based on the participation of the main parties, thus smoothing up communal differences and allowing Ministers to concentrate upon their very heavy administrative tasks.

"19. There is one further change which, if these proposals are accepted, His Majesty's Government suggest should follow.

"20. That is, that External Affairs (other than those tribal and frontier matters which fall to be dealt with as part of the defence of India) should be placed in the charge of an Indian Member of the Viceroy's Executive so far as British India is concerned, and that fully accredited representatives shall be appointed for the representation of India abroad.

"21. By their acceptance of and co-operation in this scheme, the Indian leaders will not only be able to make their immediate contribution to the direction of Indian affairs, but it is also to be hoped that their experience of co-operation in Government will expedite agreement between them as to the method of working out the new constitutional arrangements.

"22. His Majesty's Government consider, after the most careful study of the question, that the plan now suggested gives the utmost progress

practicable within the present Constitution. None of the changes suggested will in any way prejudice or prejudge the essential form of the future permanent constitution or constitutions for India.

"23. His Majesty's Government feel certain that given goodwill and a genuine desire to co-operate on all sides, both British and Indian, these proposals can mark a genuine step forward in the collaboration of the British and Indian peoples towards Indian Self-Government and can assert the rightful position, and strengthen the influence, of India in the counsels of the nations."

APPENDIX No. XIV

H. E. THE VICEROY'S BROADCAST SPEECH, DATED 14TH JUNE 1945, REGARDING SIMLA CONFERENCE

I have been authorised by His Majesty's Government to place before Indian political leaders proposals designed to ease the present political situation and to advance India towards her goal of full Self-Government.

These proposals are at the present moment being explained to Parliament by the Secretary of State for India. My intention in this broadcast is to explain to you the proposals, the ideas underlying them, and the method by which I hope to put them into effect.

This is not an attempt to obtain or impose a constitutional settlement. His Majesty's Government had hoped that the leaders of Indian parties would agree amongst themselves in the settlement of the communal issue, which is the main stumbling block. But this hope has not been fulfilled. In the meantime, India has great opportunities to be taken and great problems to be solved, which require a common effort by the leading men of all parties.

I, therefore, propose with the full support of His Majesty's Government to invite Indian leaders, both of Central and Provincial politics, to take counsel with me with a view to the formation of a new Executive Council, more representative of organised political opinion. The proposed new Council would represent the main communities and would include equal proportions of Caste Hindus and Muslims. It would work, if formed, under the existing Constitution. But it would be an entirely Indian Council except for the Viceroy and the Commander-in-Chief, who would retain his position as War Member. It is also proposed that the portfolio of External Affairs, which has hitherto been held by the Viceroy, should be placed in charge of an Indian Member of the Council, so far as the interests of British India are concerned.

A further step proposed by His Majesty's Government is the appointment of a British High Commissioner in India, as in the Dominions, to represent Great Britain's commercial and other such interests in India.

Such a new Executive Council will, you will realise, represent a definite advance on the road to Self-Government. It will be almost entirely Indian and the Finance and Home Members will for the first time be Indians, while an Indian will also be charged with the management of

India's foreign affairs. Moreover, the members will now be selected by the Governor-General after consultation with political leaders, though their appointments will, of course, be subject to the approval of His Majesty, the King-Emperor.

The Council will work within the framework of the present Constitution and there can be no question of the Governor-General agreeing not to exercise his constitutional power of control. But it will, of course, not be exercised unreasonably. I should make it clear that the formation of this interim Government will in no way prejudice the final constitutional settlement.

The main tasks of this new Executive Council would be:

First, to prosecute the war against Japan with the utmost energy till Japan is utterly defeated;

Secondly, to carry on the Government of British India with all the manifold tasks of post-war development in front of it, until a new permanent Constitution can be agreed upon and come into force:

Thirdly, to consider when the members of the Government think it possible the means by which such agreement can be achieved. This third task is the most important. I want to make it quite clear that neither I nor His Majesty's Government have lost sight of the need for a long-term solution and that the present proposals are intended to make a long-term solution easier.

I have considered the best means of forming such a Council and have decided to invite the following to the Viceregal Lodge to advise me.

Those now holding office as Premier in a Provincial Government, or for Provinces now under Section 93 Government those who last held the office of Premier:

The Leader of the Congress Party and the Deputy Leader of the Muslim League in the Central Assembly;

The Leaders of the Congress Party and the Muslim League in the Council of State;

Also the Leaders of the Nationalist Party and of the European Group in the Assembly;

Mr. Gandhi and Mr. Jinnah as the recognised leaders of the two main political parties;

Rao Bahadur N. Sivaraj, to represent the Scheduled Classes;

Master Tara Singh, to represent the Sikhs.

Invitations to these gentlemen are being handed to them today and it is proposed to assemble the Conference on June 25 at Simla where we shall be cooler than at Delhi. I trust that all those invited will attend the Conference and give me their help. On me and on them, will lie a heavy responsibility in this fresh attempt to make progress towards the final settlement of India's future.

If the meeting is successful, I hope that we shall be able to agree on the formation of the new Executive Council at the Centre. I also

hope that it will be possible for Ministries to re-assume office and again undertake the tasks of government in the Provinces now administered under Section 93 of the Constitution Act and that these Ministries will be coalitions.

If the meeting should unfortunately fail, we must carry on as at present until the parties are ready to come together. The existing Executive Council, which has done such valuable work for India, will continue if other arrangements cannot be agreed.

But I have every hope that the meeting will succeed, if the Party leaders will approach the problem with the sincere intention of working with me and with each other. I can assure them that there is behind this proposal a most genuine desire on the part of all responsible leaders in the United Kingdom and of the British people as a whole, to help India towards her goal. I believe that this is more than a step towards that goal: it is a considerable stride forward, and a stride in the right path.

I should make it clear that these proposals affect British India only and do not make any alteration in the relations of the Princes with the Crown Representative.

CONFERENCE TO DECIDE DATE OF ELECTIONS

With the approval of His Majesty's Government and after consultations with my Council, orders have been given for the immediate release of the Members of the Working Committee of the Congress who are still in detention. I propose to leave the final decision about the others still under detention as a result of the 1942 disturbances, to the new Central Government, if formed, and to the Provincial Governments.

The appropriate time for fresh elections to the Central and Provincial Legislatures will be discussed at the Conference.

Finally, I would ask you all to help in creating the atmosphere of goodwill and mutual confidence which is essential if we are to make progress. The destiny of this great country and of the many millions who live in it depend on the wisdom and good understanding of the leaders, both of action and of thought, British and Indian, at this critical moment of India's history.

India's military reputation never stood higher in the world than it does at present, thanks to the exploits of her sons drawn from all parts of the country. Her representatives at international conferences have won high regard for their statesmanlike attitude. Sympathy for India's aspirations and progress towards prosperity was never greater or more widespread. We have thus great assets, if we can use them wisely. But it will not be easy, it will not be quick. There is very much to do. There are many pitfalls and dangers. There is on all sides something to forgive and forget. I believe in the future of India and, as far as in me lies, will further her greatness. I ask you all for your co-operation and goodwill.

APPENDIX No. XV

H. E. THE VICEROY'S BROADCAST SPEECH DATED 19TH SEPTEMBER 1945, AND PRIME MINISTER ATTLEE'S BROADCAST SPEECH ON THE SAME DAY.

H. E. THE VICEROY'S BROADCAST SPEECH

After my recent discussions with His Majesty's Government in London, they authorised me to make the following announcement:

"As stated in the gracious speech from the Throne at the opening of Parliament, His Majesty's Government are determined to do their utmost to promote, in conjunction with the leaders of Indian opinion, the early realisation of full Self-Government in India. During my visit to London, they have discussed with me the steps to be taken.

"An announcement has already been made that elections to the Central and Provincial Legislatures, so long postponed owing to the war, are to be held during the coming cold weather. Thereafter, His Majesty's Government earnestly hope that Ministerial responsibility will be accepted by political leaders in all provinces.

"It is the intention of His Majesty's Government to convene as soon as possible, a constitution-making body and as a preliminary step, they have authorised me to undertake, immediately after the elections, discussions with representatives of the Legislative Assemblies in the Provinces, to ascertain whether the proposals contained in the 1942 Declaration are acceptable or whether some alternative or modified scheme is preferable. Discussions will also be undertaken with the representatives of the Indian States with a view to ascertaining in what way they can best take their part in the constitution-making body.

"His Majesty's Government are proceeding to the consideration of the content of the treaty which will require to be concluded between Great Britain and India.

"During these preparatory stages, the Government of India must be carried on and urgent economic and social problems must be dealt with. Furthermore, India has to play her full part in working out the new world order. His Majesty's Government have, therefore, further authorised me, as soon as the results of the Provincial Elections are published, to take steps to bring into being an Executive Council which will have the support of the main Indian parties."

That is the end of the announcement which His Majesty's Government have authorised me to make. It means a great deal. It means that His Majesty's Government are determined to go ahead with the task of bringing India to Self-Government at the earliest possible date. They have, as you can well imagine, a great number of most important and urgent problems on their hands: but despite all their preoccupations, they have taken time, almost in their first days of office, to give attention to the Indian problem, as one of the first and most important. That fact is a measure of the earnest resolve of His Majesty's Government to help India to achieve early Self-Government.

The task of making and implementing a new constitution for India is a complex one, which will require goodwill, co-operation and patience on the part of all concerned. We must first hold elections so that the will of the Indian electorate may be known. It is not possible to undertake any major alteration of the franchise system. This would delay matters for at least two years. But we are doing our best to revise the existing electoral rolls efficiently.

After the elections, I propose to hold discussions with representatives of those elected, and of the Indian States to determine the form which the constitution-making body should take, its powers and procedure. The draft declaration of 1942 proposed a method of setting up a constitution-making body, but His Majesty's Government recognise that, in view of the great issues involved and the delicacy of the minority problems, consultation with the people's representatives is necessary before the form of the constitution-making body is finally determined.

The above procedure seems to His Majesty's Government and myself the best way open to us to give India the opportunity of deciding her destiny. We are well aware of the difficulties to be overcome, but are determined to overcome them. I can certainly assure you that the Government and all sections of the British people are anxious to help India, which has given us so much help in winning this war. I, for my part, will do my best, in the service of the people of India, to help them to to arrive at their goal, and I firmly believe that it can be done.

It is now for Indians to show that they have the wisdom, faith and courage to determine in what way they can reconcile their differences and how their country can be governed by Indians for Indians.

PRIME MINISTER ATTLEE'S BROADCAST SPEECH.

"The King's speech at the opening of the new Parliament contained this passage, "In accordance with the promises already made to my Indian peoples, my Government will do their utmost to promote, in conjunction with the leaders of Indian opinion, early realization of full Self-Government in India". Immediately after assuming office, Government turned its attention to Indian affairs, and invited the Viceroy to come home in order to review with him the whole situation, economic and political. These discussions have now concluded, and the Viceroy has returned to India and has made an announcement of policy.

You will remember that in 1942, the Coalition Government made a draft declaration for discussion with the Indian leaders, commonly known as the Cripps Offer. It was proposed that, immediately upon cessation of hostilities, steps should be taken to set up, in India, an elected body charged with the task of framing a new constitution for India. Sir Stafford Cripps took that offer to India but it was unfortunately not accepted by leaders of Indian political parties; the Government is, however, acting in accordance with its spirit and intention.

The first step necessary is to get, as soon as may be, as democratic a representation of the Indian peoples as possible. War has in India, as in this country, prevented elections being held for a long time, and the Central and Provincial Legislatures must now be renewed. Therefore,

as has already been announced, elections will be held in India in the coming cold weather. Electoral rolls are being revised as completely as time permits, and everything possible will be done to ensure free and fair elections. The Viceroy has today made known our intention to follow the elections by positive steps to set up a Constituent Assembly of Indian elected representatives, charged with the task of framing a new constitution. Government has authorised Lord Wavell to undertake preliminary discussions with representatives of the new Provincial Legislatures, as soon as they are elected, to ascertain whether the proposals of the Cripps Offer are acceptable as they stand, or whether some alternative or modified scheme should be preferable. Discussions will also take place with the representatives of Indian States.

Government has further authorised the Viceroy, as an interim measure, to take steps, after the elections, to bring into being an Executive Council, having the support of the main Indian parties, in order that India may deal herself with her own social and economic problems, and may take her full part in the working out of a new world order.

The broad definition of British policy towards India, contained in the declaration of 1942, which had the support of all parties in this country, stands in all its fullness and purpose. This declaration envisaged the negotiation of a treaty between the British Government and the Constitution-making body, Government is giving immediate consideration to the contents of such a treaty. It can be said here that in that treaty, we shall not seek to provide for anything incompatible with the interests of India. No one who has any acquaintance with Indian affairs will underestimate the difficulties which will have to be surmounted in the setting up and smooth operation of a Constitution-making Body. Still greater is the difficulty which will face the elected representatives of the Indian people in seeking to frame a constitution for a great continent containing more than 400,000,000 human beings.

During the war, Indian fighting men have in Europe, Africa and Asia played a splendid part in defeating the forces of tyranny and aggression. India has shared to the full, with the rest of the United Nations, the task of saving freedom and democracy. Victory came through unity and through the readiness of all to sink their differences in order to attain the supreme object, Victory. I would ask all Indians to follow this great example, and to join together in a united effort to work out a constitution which the majority and minority communities will accept as a just and fair constitution, in which both the States and the Provinces can find their place. The British Government will do their utmost to give every assistance in their power. and India can be assured of the sympathy of the British people."

APPENDIX No. XVI

(NOTE BY RAO BAHADUR V. P. MENON, C.I.E.)

"Strictly speaking, the term "military police" is a misnomer: there are no military police. A good many provinces, however, have special

police forces whose role, speaking generally, is to act as a reserve to deal with serious internal disorders and thus reduce the necessity for calling upon troops to act in aid of the civil power. They do not normally exercise ordinary law and order functions; nor do they generally exercise combatant functions like the army. With one or two exceptions, they are not armed with anything more than rifles. Some of them are administered under their own acts and are organized on semi-military lines under military officers lent for the purpose.

2. There are some special police forces like the Assam Rifles and the Frontier Constabulary in the N.W.F.P. which have always been employed primarily for frontier duties. The Assam Rifles were raised between 1870 and 1920 and have been constituted as a Central force under a separate act [The Assam Rifles Act, (Act V of 1941)]. Officers are borrowed from the army and the force is intended to maintain order in Tribal and Excluded areas. It is administered by the Assam Government who make a contribution to the Centre in return for the right to use it for Provincial purposes in cases of internal disorder. During the war, the force has gradually been handed over to the army for combatant duties. The Frontier Constabulary is also a Central force under the administrative control of N.W.F.P. for the protection of the frontier of British India adjoining that Province. The constabulary is officered mostly by police officers [The North-West Frontier Constabulary Act, 1915, (Act XIII of 1915)].

3. Among the Provinces which have constituted special police forces to suppress internal disorders may be mentioned Bengal (the Eastern Frontier Rifles) Madras (the Malabar Special Police) and Sind [The Sind (Police) Rifles Force]. The Bengal and Sind forces are administered under their own acts [The Eastern Frontier Rifles (Bengal Battalion) Act, II of 1920] and the Sind (Police) Rifles Force Act, 1943, [Sind Act XVII of 1943)], while the Malabar Special Police have been organized under the Madras Police Act. When Assam was revived as an independent Province in 1912, one battalion of the Eastern Bengal and Assam Military Police was left in Bengal and survives today as the Eastern Frontier Rifles. The Force is officered partly by police and partly by military officers. The Malabar Special Police was raised as a result of the Moplah rebellion and besides policing the Malabar country now serves as a general reserve to meet any internal disturbance in the Province. The Sind Rifles were recently constituted for the suppression of Hurs after the withdrawal of martial law administration. Officers are provided both for the Madras and the Sind forces partly by the police and partly by the army.

4. During the war, the United Provinces (The U.P. Special Armed Constabulary Act, 1942, U.P. Act No. V of 1942) the Central Provinces and Bihar have raised forces of Special Armed Constabulary whose duty it is to relieve the army of certain specific functions such as the guarding of railways. They are not intended for combatant duties against the enemy. Those forces which are actually performing military duties of any kind, e.g., guarding of aerodromes, strategic railways, important

protected places, are temporarily paid from Defence Estimates. The remainder, apart from Central forces employed on frontier duties; are all paid from Provincial revenues and perform police functions."

APPENDIX No. XVII

SPEECHES OF H. E. THE COMMANDER-IN-CHIEF RELATING TO THE FUTURE DEVELOPMENT OF INDIA'S DEFENCE FORCES

SPEECH REPORTED ON 12TH OCTOBER 1945.

My headquarters staffs and I have been working continually during the past 18 months on the problem of the future composition and organisation of the armed forces of this country. It may be said that this is a problem which, being essentially Indian, should be left until the future constitution of this country is settled and a truly Indian Government is in power. There is, on the face of it, a good deal in this argument, but after the most careful thought, I came to the conclusion that, unless we were to lose the chance of being able to put the great store of knowledge and experience gained in this war to the best advantage, we must lose no time in starting to solve the problem.

There are many factors to be considered—financial, economic, racial, communal and last but very far from least, strategical. In our approach to this problem my advisers and I have striven to look at it from the strictly Indian standpoint and no other. We have, of necessity, assumed that India, whatever her future form of government may be, will remain a member of the British Commonwealth of Nations Without this assumption, any planning for future defence must, in the circumstances existing today, be quite unreal.

DEVELOPMENT OF THE NAVY

Any future planning for India's defence must also include the provision of Naval and Air Forces as well as land forces. Before this war, we had an Indian navy, but it was extremely small and could not be counted as a fighting force in the modern sense of the term. The Indian Air Force consisted of one squadron. Today we have a navy of considerable size manning a large number of ships. These ships, it is true, are small in size, but they are all of modern types evolved during the war, and it is common knowledge that they have done extremely useful work and taken a most effective part in the defeat of our enemies. It is, to my mind, essential that India should have, in the future, a navy worthy of her place in the world and of the part she has played in this war. Unless this navy is a properly balanced force and of a sufficient size, it is idle to expect the youth of the country to seek a career in it. For our naval officers and ratings of the future, we must have the best the country can give us.

But a modern navy is an expensive thing, and India is still a relatively poor country, and must, it seems, remain so until the schemes for development, now being considered bear fruit. Moreover, in considering the size of our post-war Navy, its cost must be related to the money likely to

be available for all three services, the navy, the army and the air force. Each cannot be considered in isolation, all must be considered together and a proper proportion fixed between them.

Nevertheless, I think the Indian navy of the future must have some big ships, larger than the small corvettes and frigates which it has at present. I hope, therefore, that we shall at least have a cruiser or two, as without these, it will be difficult to have a navy fit to take its place in war alongside the other navies of the Commonwealth.

THE INDIAN AIR FORCE

As regards the Royal Indian Air Force, Government have already said that its future strength will be at least ten squadrons with the necessary training and repair establishments. This is not a large force, but it is sufficient to provide a career for officers and men who wish to join the Air Force. A force of ten squadrons will not be sufficient, in my opinion, to provide for the needs of India's air defence in the future. It will be necessary, therefore, for the time being at any rate, for India to have squadrons of the Royal Air Force stationed in the country. It is my hope, however, that the Royal Indian Air Force will steadily expand until it can undertake the full responsibility of providing the air force needed in peace time for the defence of the country, so that we can dispense with the services of the Royal Air Force.

Meanwhile, the continued close association of the Royal Air Force with the R.I.A.F. must be for the good of the latter, which, as a young and relatively inexperienced force, should benefit greatly from the wider knowledge and experience of the older forces.

The Royal Indian Air Force of the future will contain both short service officers and permanent commissioned officers. This decision has been taken after the most careful consideration and consultation with those best qualified to give advice, and is, I am convinced, the best solution for the present at any rate.

The personnel of the Royal Indian Air Force, both officers and other ranks, is exclusively Indian, and will remain so. For some little time to come, until there are sufficient Indian officers to fill all the posts in the forces from the highest to the lowest, it will be necessary to attach officers of the Royal Air Force to the R.I.A.F. as has been done since the force was born. This is, however, a temporary expedient only. We have had some difficulty during the war in securing the services of a sufficient number of suitable young men to fill the officer ranks of the R.I.A.F., and it is only just now that we have been able to complete the ten squadrons of the force. If my hope of an Indian Air Force of adequate size and quality is to be fulfilled, it is essential that youths of the right type should come forward freely to take commissions as officers and to fill the ranks of the R.I.A.F.

I turn now to the army, the oldest and, because of India's geographical position, still the largest of India's armed forces. Before this war, India had a fine and efficient army, well trained, if not too well equipped owing to the need for economy in expenditure. But this army was not in itself a balanced army, that is, it was not so composed as to

be able to take the field as it was. The reason for this was that while the Indian Army had a large number of cavalry and infantry regiments, it had very little artillery and of the few artillery units then in existence, the great majority were mountain artillery batteries, very efficient, but of necessity equipped only with small guns of short range.

CONTRIBUTION OF MADRAS TO ARTILLERY FORCES

The great bulk of the field artillery and all the medium artillery of the Indian divisions which fought in the early stages of the war was composed of British artillery units—and very fine units they were, too, as all Indian soldiers who had them to support them will bear witness. During the war, this situation has been rectified, and we now have about 60 regiments of Indian artillery, including medium artillery, with guns approaching six inch calibre, field artillery, anti-tank artillery, anti-aircraft batteries, heavy and light in great numbers, and of course our famous mountain batteries carried on mules which have proved in the jungles and mountains of Burma that they are as good as ever they were, and that is saying a great deal. The men of this new artillery are drawn from all parts of India, and notably from Madras, which has provided a very great number of fine artillery regiments for our new army.

In the future, it is obvious that the Indian army must contain a proper proportion of all the various arms—armoured corps, infantry, artillery, engineers, signals, transport and so on, so that it shall be a self-contained army able to take the field without seeking aid from elsewhere. This is the object which the proposals now under our consideration are intended to achieve.

We realise that financial stringency will put a strict limit on the side of our army in the future as it did in the past, but within these limits, we are planning to make it as efficient as possible and completely up-to-date and modern.

"NEW ARMY TO BE MORE BROADLY BASED"

In order to achieve a proper balance within the army, considerable changes in the pre-war composition and organisation of units will be necessary. Moreover, the new army will be much more broadly based as regards recruiting than the old army. This is essential not only to satisfy the aspirations of the peoples of India, but in order to make the fullest use of our available manpower.

Many new regiments created during the war such as the Madras Regiment, the Assam Regiment, the Bihar Regiment, the Mahar Regiment, the Sikh Light Infantry and numerous others, which tapped new sources of manpower have come to stay, and must find a place in the army of the future. This in itself will entail changes and re-adjustments in the pre-war organisation and composition of the army.

These changes are unavoidable if we are to keep pace with the times and get the best results from the resources available. I hope that the need for them will be accepted in the right spirit and that self-interest will not be allowed to affect the efficiency of the army as a whole.

"ARMY NOT A GLORIFIED POLICE FORCE"

In order to keep the army ready for war and up to the proper pitch of efficiency, we hope to keep our divisional organisation in peace and to keep the troops concentrated as much as possible in areas where they can be trained systematically in a favourable climate. We must avoid scattering our army in small detachments and single units all over the country as was the case before the war. No army can be properly prepared for war in such conditions and, here, I wish to stress very strongly that an army's job is to make itself fit for war and not to act in peace as a glorified police force in aid of the civil power.

It is the business of Provincial Governments to keep up a police force adequate to keep order within their own boundaries. To use highly trained and expensively equipped soldiers for this purpose is most uneconomical and detrimental to the spirit and efficiency of an army.

I wish to mention one feature of the army which I hope has come to stay—that is the Boys' Companies which are now part of every regiment and corps throughout the army. These boys join the army at the age of 16 or so, and are given a really sound education and a good physical training as well as learning military subjects until they are of the age to join the ranks. We concentrate on bringing out the qualities of leadership and on building up their characters and the results have been truly remarkable, as any one who has seen any of these young soldiers units will, I think agree.

The Indian Army Medical Corps has come into existence as a separate service during the war, having been originally an off-shoot of the Indian Medical Service. Its continued existence as a separate entity is, in my opinion, not only essential but unavoidable. It will remain as a purely army medical service with no connection with any civil medical service.

INDIANISATION OF OFFICERS' RANKS

It is the natural desire of all Indians that the Indian armed forces should, in course of time, be officered by Indians alone. I am wholly in agreement with this desire, and have under consideration steps which will facilitate its fulfilment, and I hope it may be possible to make an announcement on this subject in the near future. Indian officers in the three services have not yet acquired, in sufficient number, the necessary experience and knowledge to be able to fill at once all grades in the officer cadres of the three services, and insistence on too rapid a rate of substitution of Indian for British officers would not, in my considered opinion, be in the best interests of India. Subject to this qualification, I myself am convinced that the aim must be progressively and systematically to replace the British officers' element in the three services by Indian officers.

PROPOSED MILITARY ACADEMY

I set high hopes on the proposed Academy for the education and training of future officers of the three services. It is a great undertaking, and I have every confidence that the members of the National Defence Council will do their best to enlist the maximum amount of public support for it. The Academy will be the main source of supply of our officers for the armed forces and it will admit cadets of Indian nationality and domicile only.

We hope that the Academy will produce officers of the type we require in modern war, physically fit, morally sound and mentally alert. There is no doubt, in my mind, that the country possesses suitable material for the officering of the post-war Indian armed forces. The trouble has been that the present educational system fails to develop adequately those qualities of character, leadership, personality and broad-mindedness which are as essential in the defence services as they are in any other sphere of national activity. I am confident that the Academy in conjunction with schools to feed it, the establishment of which seems likely to be recommended by the committee, will remedy the defects of the existing educational system.

"DEFENCE FORCES A FACTOR HELPING INDIAN UNITY"

I have had the privilege of serving for over 40 years in the Indian army. The achievements of the Indian armed forces, both in the last war and this war, fill me with the greatest pride. To my mind, the Indian armed forces constitute one of the most important factors towards the achievement of unity in India. They also constitute in the hands of the government of the country an admirable instrument for the defence and security of India. I myself firmly believe that the navy, army and air force of India have a bright future before them, and I hope that the very best of the youth of India will come forward to join them. The armed forces in peace-time will be much smaller than they were during the war. While I realise that the best hope for a sound and successful expansion during war lies in the industrial, economic, social, and educational development of the country and that sufficient sums of money should be made available for such development, there must also be adequate funds for the building up on a scientific and modern basis of the post-war armed forces, always bearing in mind that the task of the armed forces in peace is to be ready for war.

One last word. In my forty years and more of service to India in the army, I have learned that co-operation and toleration are possible even between the very numerous and varied races and creeds which go to make up the 400 and more millions who form the peoples of India.

The army recognises no difference of caste or creed or race and I hope it never will. It would be an evil day for India if communal differences and jealousies were to introduce themselves into her armed forces. Today you have the two younger services, the R.I.N.N. and the R.I.A.F. taking their men without any regard to race and religion, and what is more succeeding in making them live and work and eat together without thought of communal differences. This is a great achievement and if I may say so, one which provides an example which might well be followed outside the services.

The Indian officer of the army today must be an Indian first and last and not a Sikh, a Punjabi, or a Mahratta, or a Rajput, a Tamil or a Telugu. I am glad to say that, so far as I am aware, this is how our officers regard themselves and it is the only possible way in which they can regard themselves if our army is to be a truly national army as I fervently hope it will be. In the armed forces at any rate, unity of thought and purpose is

essential and in disunity, lies disaster not only for them but for the country as a whole."

The Commander-in-Chief, General Sir Claude Auchinleck, announced on 22nd October 1945, plans for the complete Indianisation of India's armed forces of the future. The plans are set forth in a communique which he read and explained to Press correspondents:

"The Government of India," says the communique, "have had under consideration for some time the policy to be followed in the future officering of the Royal Indian Navy, the Indian Army and the Royal Indian Air Force, and, in agreement with His Majesty's Government, have made the following decisions:

"The grant of permanent commissions in the Royal Indian Navy and the Indian Army will, in future, be restricted to Indians and to other persons domiciled in India who are subjects of His Majesty's or of a Prince or Chief in India. The recruitment of officers to the Royal Indian Air Force is already subject to this restriction. As a temporary expedient, however, and in order to meet immediate needs, it has been decided to offer 40 regular commissions to European officers of the R.I.N. reserves. This will enable the R.I.N. to obtain officer of intermediate seniority with war experience, a category to fill which, a sufficient number of Indian officers is not at present available.

BRITISH OFFICERS TO BE SECONDED

"It will be generally recognised that the three Indian services will still require a quota of British officers until such time as there is an adequate supply of qualified Indian officers completely to fill all grades in the officer cadre. It has been decided therefore that British officers for service in the three Indian services shall hereafter be obtained by secondment or attachment from the Royal Navy, the British Army and the Royal Air Force respectively for so long as may be found necessary. The quota of seconded or attached British officers of the three Indian services will be systematically and progressively reduced as Indian officers become available.

"Certain matters arising out of these decisions, such as the duration of periods of secondment or attachment of British officers from British services, and the terms and conditions under which such officers will serve, are being examined by the Government of India in conjunction with His Majesty's Government.

"These decisions do not affect the position of regular British officers already holding permanent commissions in the Royal Indian Navy and the Indian Army."

The word "European" in the phrase "European officers of the R.I.N. Reserves" was explained by the C-in-C to mean "British officers of non-Asiatic domicile."

General Auchinleck stated that there were at present 2,300 regular British officers without including medical officers, for the Army in India

Reserve. Before the war there were 3,900 regular British officers, of whom some 1,600 had either retired or been killed. Indian regular officers numbered 450, who were left over from those who joined the army between 1918 and 1940.

How long will it be before the armed forces are completely officered by Indians, asked a correspondent.

"I don't know", General Auchinleck replied. "I don't think anybody can tell you. It depends on one thing—that is, the rate at which suitable Indian youths come forward for commission in the armed forces. I would stress the word 'suitable'. And it also depends on the rate at which such youths can be passed through the cadet colleges and training establishments in order to prepare them for commission."

600 OFFICERS A YEAR TO BE TRAINED

General Auchinleck expressed the hope that the proposed War Memorial Military Academy would provide facilities to train all the Indian officers required. It looked as if the Academy would probably have to house and train something like 2,500 or 3,000 cadets, giving them a four-year course, which meant an intake of 500 or 600 a year.

His Excellency mentioned other factors governing the pace of Indianisation and said that in six months or a year, all the details would have been worked out and if enough suitable candidates came forward it might be possible to make an estimate of the date of completion of the Indianisation process. As soon as it was possible to do so, it was Government's intention to make an estimate.

Giving figures of Emergency Commissioned officers, General Auchinleck said that among these, Europeans numbered 11,900 and Indians 8,000. Every one who was within the age limit had been asked whether he wished to apply for a permanent commission. Between 1,800 and 2,000 Indian Emergency Commissioned officers had made the application and more were coming in. He expected the figures to rise upto 2,500. Of these not all would be found suitable but he hoped that a reasonable proportion would be suitable and these would be commissioned, provided that they were not too large in number for the approved post-war strength of the armed forces.

Of the 2,300 British officers, quite a large number were senior officers, who in any case would retire in two or three years. A good many of them had been detained over their retiring age because of urgency.

HIRING "TECHNICIANS" FROM BRITAIN

The scheme he had in mind would work somewhat as follows: As many Indian cadets as offered themselves and were found suitable would be accepted. If to begin with there were not sufficient young Indian officers from among the Second Lieutenants and Lieutenants, he would ask the War Office to produce the required number of British officers until a sufficient number of Indians were available. These British officers would be attached for, say, three years. After that they would revert to their British regiments or units, with which they would have to remain for a year

or two. Thereafter they would be allowed to come back to India, if needed. The point was they would have no permanent lien on the services in India.

"In short, the Indian Government in future will under this proposal hire technicians from the British Government: only, these technicians instead of being engineers or architects happen to be soldiers."

EXPANSION OF U. T. C.

The University Training Corps was mentioned by a correspondent as a source of officer recruitment. General Auchinleck indicated that he wished to expand the University Training Corps and added: "We wish to keep open a certain proportion of vacancies for officers from other sources. These sources will naturally be the Universities. We don't want to form an exclusively military class. We have enough classes in this country."

Vacancies would also be kept open for promotion from the ranks. General Auchinleck added.

A correspondent drew attention to the handicap imposed on first class Indian personnel by the requirement to master the English language. The C.-in-C. conceded that the language problem was one which would have to be decided by the future Indian Government, but under present conditions English was the only language for higher military and technical instruction. Every facility was afforded to the soldiers to learn English.

The Indian Army of the future, said His Excellency, would require its own medical corps.

INDIANISATION

Briefly tracing the history of Indianisation, General Auchinleck mentioned that before 1918, with one or two exceptions officers of the Indian army were British. He referred to the decision in 1918 to grant King's Commissions to Indians and to establish the Cadet School at Indore. The school lasted for only three years and trained 50 cadets. At the same time, ten vacancies a year were allotted to Indian cadets at Sandhurst and Woolwich. When the Indore School was closed down, Commissions were granted only to Indians who had been through Sandhurst or Woolwich. That went on for a good many years, and, by 1923 quite a number of Indians were coming out of these colleges. In that year, the eight British officers were to be appointed to eight selected units. The idea was that gradually officer ranks would be built up from the bottom and British officers would disappear altogether after some time. After the Indian Sandhurst Committee's report, the Indian Military Academy was established. In 1929 a further eight units of cavalry and infantry were selected for Indianisation, making a total of 16 units in all. Rates of pay for these Indian officers were based on rates given to British officers serving in the U.K. The young Indian officer got the equivalent in rupees of what the young British officer got in the U.K. in shillings and pence. In 1940 the policy of separate Indianised units was abolished. No distinction was made whether an officer was British or Indian. He was supposed to serve according to the needs of the units, although as a matter of necessity and convenience a balance was kept so that there was no preponderance of

British in one or of Indians in another. That was the system which had existed throughout this war.

The last step was taken in 1944 when the basic pay of the British and Indian officers of the Indian army was equalised. The Indian officer was no longer restricted to the pay of the equivalent British officer in England. Both got the same basic pay.

APPENDIX No. XVIII

The Conciliation Committee Information Series.

Pamphlet	No.	1.	Government-Congress-League Declarations.
,,	,,	2.	Fundamental Rights.
,,	,,	3.	Analytical Notes on Cripps Proposals and other important documents.
,,	,,	4.	Democratic Executives of European and American countries.
,,	,,	5.	Composition of the Legislatures of different countries in Europe—Not yet published.
,,	,,	6.	Memoranda from Associations.
,,	,,	7.	Answers to Questionnaire.
,,	,,	8.	Memoranda from prominent individuals.
,,	,,	9.	Memorandum of Sir Homi Modi and Dr. John Matthai.
,,	,,	10.	Recommendations.

APPENDIX No. XIX

Statement of Attendance of Members of the Committee at the meetings held in New Delhi in 1944-45.

(Total No. of meetings held : 11)

S. No.	Names of Members.	No. of Meetings attended by each.
1	The Rt. Hon. Sir Tej Bahadur Sapru	11
2	The Rt. Hon. Dr. M. R. Jayakar	8
3	Mr. P. R. Das	8
4	Sir Syed Wazir Hasan	0
5	Dr. P. K. Sen	11
6	Most Rev. The Metropolitan of India	8
7	Sir S. Radha Krishnan	7
8	Sir C. Ramalinga Reddy	0
9	The Hon'ble Sir N. Gopalswamy Iyengar	11
10	Sir Homi Mody	3
11	Rajah Sir Maharaj Singh	5
12	Mr. Muhammad Yunus	0
13	Mr. N. R. Sarkar	0
14	Mr. K. Srinivasan	0
15	Mr. Tushar Kanti Ghosh	3
16	Dr. John Matthai	6
17	Mr. Frank Anthony	10
18	Kunwar Sir Jagadish Prasad	11
19	Dr. Sachchidananda Sinha	0
20	Sardar Sant Singh	11
21	Mr. B. L. Rallia Ram	10
22	Khan Bahadur Nabi Baksh	11
23	Mr. N. M. Joshi	11
24	Sardar Harnam Singh	10
25	*Mr. Fazal Ibrahim Rahimtoola	0
26	Mr. Syed Aga Haider	0
27	Mr. M. Ruthnaswami	1
28	Mr. Hemchandra Naskar	0
29	Mr. J. Sivashanmugam Pillai	8
30	Bakshi Sir Tek Chand	8

*** This Member has since resigned.**

APPENDIX No. XX

Statement of the attendance of Members of the General Sub-Committee.

(Total No. of meetings held: 4)

S. No.	Name of members	No. of Meetings attended by each member.
1.	The Rt. Hon'ble Sir Tej Bahadur Sapru	4
2.	The Rt. Hon'ble Dr. M. R. Jayakar	4
3.	Sir Homi Mody	4
4.	Mr. P. R. Das	4
5.	Khan Bahadur Nabi Baksh	4
6.	Dr. P. K. Sen	4
7.	The Hon'ble Sir N. Gopalaswami Iyengar	4
8.	Kunwar Sir Jagdish Prasad	2
9.	Sir Syed Wazir Hasan	2

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ERRATUM

Page No.	Para No.	Line.	Corrections
10	10	1	For 'Montague' read Montagu.
11	11	12(t)	For 'Montague' read Montagu.
46	59	2(t)	The second line should be read as follows: ....referred to below. So far....
56	69	19(t)	The nineteenth line should be read as follows: ....between the principal elements in India's national life. The....
112	144	16(t)	For 'ras' read has.
114	147	10(t)	For 'masss' read masses.
128			The Title of the Chapter and its No. to be read as: Pakistan or Partition of India [Chap. IV.]
138	180	7(t)	For 'wrat' read what.
142	183	11(b)	For '57' read .5
162A			Under ASSAM, For 'Sylcheh' read Sylhet.
245	350	2(b)	Omit 'Rai Bahadur.'
246	351	13(t)	For 'mass' read man.
272	386	13(t)	For 'files' read file.
284	402	18(t)	For 'Navy' read Air Force.

(t) Indicates line from the top of the page.

(b) Indicates line from the bottom of the page.